



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 4028-22
Ref: Signature Date

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Dear ██████████

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 5 December 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies, the 26 July 2022 Advisory Opinion (AO) provided to the Board by the Manpower Management Division Records and Performance Branch (MMRP-50), as well as your 13 October 2022 response to the AO.

The Board noted that you were considered (in-zone) by the Fiscal Year 2017 USMC Lieutenant Colonel Promotion Selection Board (FY 2017 LtCol PSB) and failed selection. Prior to the convening of the FY 2018 LtCol PSB, on 1 August 2016, the Headquarters Marine Corps Performance Evaluation Review Board (PERB) made corrections to your fitness reports for the reporting periods 1 January 2014 to 31 May 2014 and 1 June 2014 to 31 May 2015, respectively. Subsequently, failed selection by the FY 2018 through FY 2020 LtCol PSBs. On 16 October 2018, the PERB removed your fitness report for the reporting period 4 June 2010 to 10 May 2011. On 18 April 2018, this Board (Docket No. 1527-19) directed removal of your failures of selection incurred by the FY 2017 through FY 2020 LtCol PSBs.

The Board carefully reviewed your request to adjust your date of rank in the grade of LtCol from 1 August 2020 to 1 November 2016. The Board considered your contentions that your record contained errors and unjust material when you were not selected for promotion on the FY 2017 LtCol Promotion Selection Board (PSB). You claim that you would have been selected to LtCol on the FY 2017 board if not for the presence of the unjust material. You further claim that some

of your Reporting Seniors (RS) and Reviewing Officers (RO) used you to help shape their fitness report profiles and boost the promotion chances of Majors not yet in-zone following your first non-selection by marking you below what you earned through your performance. You also believe the AO recommendation to deny your petition is subjective, rather than objectively based on fact, and your detailed data analysis factually supports that assertion.

The Board, however, substantially concurred with the AO and determined that you provided insufficient evidence that unjust material in your record caused you to fail selection by the FY 2017 LtCol PSB, and to state otherwise is mere speculation. The Board specifically concurred with the AO that your selection to LtCol was a result of your opportunity to continue to improve upon your record through sustained superior performance in the several years following the FY 2017 PSB. The Board further noted the decision of a previous panel of this Board to remove your failures of selection for FYs 2017 through FY 2020 and direct the subsequent action taken by MMPR-1 to correct your naval record so that you be considered by the FY 2021 LtCol PSB as an “in-zone” officer, affording you a premiere brief before the PSB, with no failure of selection.

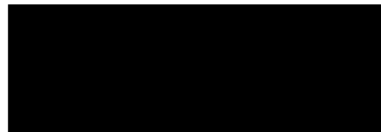
As a result of the above-mentioned action, you were selected by the FY 2021 LtCol PSB, and promoted to your current grade on 1 August 2020. The Board, however, was not convinced that your FY 2021 selection for promotion was based solely on the removal of a fitness report issued in 2011. The Board concluded, using a preponderance of evidence standard, that your selection for promotion was the cumulative effect of corrections to your performance record, your opportunity to improve upon your performance record over a four-year period of time, removal of all of your failures of selection, and a premiere brief before the FY 2021 LtCol PSB.

With regards to your contention that your RSs and ROs marked you lower on fitness reports than what you believed you earned, you provided no evidence other than your subjective statement. As such, the Board determined that your petition does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

1/4/2023

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Deputy Director

Signed by: 