



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

Docket No. 4074-22  
Ref: Signature Date

Dear Petitioner:

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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 4 October 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and 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, as well as the 31 August 2022 Advisory Opinion (AO) provided by the Military Personnel Law Branch (JPL). Although you were provided an opportunity to respond to the AO, you chose not to do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove the following Administrative Remarks (Page 11) not recommending you for promotion to the rank of sergeant: (1) 13 August 2021 Page 11 for the month of September 2021, (2) 14 September 2021 Page 11 for the month of October 2021, (3) 3 November 2021 Page 11 for the month of November 2021, and its duplicate. The Board considered your contentions that the Page 11's were issued due to a pending investigation, the investigation found you innocent, you have since promoted to sergeant.

However, the Board substantially concurred with the AO that the contested Page 11's are valid as written and filed, in accordance with the applicable guidance. In this regard, the Board noted that the Page 11s were issued not recommending you to promotion to sergeant for the months of September 2021, October 2021, and November 2021. The Board noted that the Naval Criminal Investigation Service (NCIS) Investigation concluded on 14 September 2021 and that your Commanding Officer (CO) closed the case. The Board also noted that although the investigation did not result in substantiated charges, your CO was justified in restricting your promotion during the pending investigation. Further, the Board noted that the Enlisted Promotions Section published MARADMIN 150/16, which specifically states if a commander with promotion authority wishes to pull the "not rec" at any time during the quarter to allow the Marine to be eligible for promotion, the original Page 11 will remain within the Marines record. Based on these factors, the Board concluded there is no error or injustice with the Page 11's in questions. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Finally, the Board determined that you have not exhausted your administrative remedies. In accordance with the Enlisted Promotions Manual, the Commanding Officer may request remedial promotion to the Manpower Management Promotions Branch (MMPR-2) for approval within 1 year from the date of error or injustice. The Board found no evidence of this request. Further, the Board Manpower Management Records and Performance (MMRP) Branch is the agency in which you should request any duplicates of your record to be removed. Therefore, the Board took no action on these issues.

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,

10/17/2022

