



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

██████████  
Docket No. 5163-22  
Ref: Signature Date

██████████  
██  
██

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 3 January 2023. 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.

Regarding your request for a personal appearance, the Board determined that your personal appearance, with or without counsel, would 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 that your active duty and reserve records be corrected, restore your rank to sergeant (Sgt/E-5), and retroactive pay. You also request to correct your name on your DD 214 to reflect your name change. The Board considered your contentions that according to the Manual for Courts-Martial (MCM), court-martial officers are captains and above, not lieutenants, and the Summary Court-Martial (SCM) was not in compliance with procedural rules. You claim that you tried to get justice and was denied.

The Board noted that on 15 November 1973, you were convicted by SCM for two instances of disobedience, and you were awarded reduction to private (E-1), forfeitures of pay, and confinement at hard labor for 30 days. The Board found no evidence that the officer who administered the SCM did not have the appropriate authority to do so or that the SCM was not in compliance with procedural rules and you provided none. The Board determined that the SCM

was procedurally correct according to the MCM. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers, and in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption.

The Board also noted that according to the State of [REDACTED] Court records, your name change was approved in civil court on 28 October 2012. Accordingly, the Board determined that since your name change did not occur prior to your separation and in fact was approved in civil court well after your separation from the military, there is no basis to modify the name listed on your DD 214. Based on the totality of the evidence, the Board found no basis for promotion or any corrections to your active duty or reserve record. Concerning any additional administrative corrections to your record, the Board determined that you have not exhausted your administrative remedies and you must submit your request to Headquarters, Marine Corps (MMRP-20). Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

2/2/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]