

DEPARTMENT OF THE NAVY

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

> Docket No. 5595-22 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 28 September 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. In addition, the Board also considered the advisory opinion by Headquarters Marine Corps, memorandum 1400/3 MMPR-2 of 16 August 2022, which was previously provided to you. You were afforded an opportunity to submit a rebuttal, but did not do so.

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.

You requested promotion to the rank of Corporal (Cpl)/E-4 effective 1 February 2022 or to be compensated E-4 pay from 1 February 2022 through 14 July 2022, the date you requested mast. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that in accordance with Marine Corps Order P1400.23D, the decision to promote to the grades of Private First Class/E-2 though Sergeant (Sgt)/E-5 rests solely with commanders with promotion authority. Commanders with promotion authority are directed not to promote a Marine if, in their opinion, the Marine is not capable of performing satisfactorily in the higher grade, even though all other requirements are met. Marines in the grades of Cpl and Sgt are required to exercise an ever-increasing degree

of maturity, leadership, and professionalism. Additionally, no Marine will be promoted to Cpl or Sgt who has not positively demonstrated the potential, motivation, and maturity to satisfactorily discharge the duties of a small unit leader. Furthermore, when erroneous promotions to Sgt and below are discovered, the commander will revoke the promotion and the Marine will be returned to the appropriate grade. Waivers for erroneous promotions to Cpl and Sgt are not authorized.

A review of your record indicates that on 20 January 2022, your Junior Enlisted Performance Evaluation System score was 318. The issued cutting score for promotion to Cpl in the military occupational specialty of 3432 was 305, rendering you eligible for promotion to Cpl. However, in your battalion commander's opinion, you did not maintain physical fitness standards commensurate with executing ever-increasing duties of a small unit leader. Therefore, on 25 January 2022, you were not recommended for promotion. Although you were presented with a promotion warrant signed by your commanding officer, the Marine Corps Total Force System did not advance your pay grade because of the 25 January 2022 recommendation to not promote you. Upon requesting mast on 14 July 2022, the command discovered you were promoted erroneously, therefore, the Board determined it was the command's duty to rescind the promotion. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

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.

