



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. 6734-22
Ref: Signature Date

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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.

A three-member panel of the Board, sitting in executive session, considered your application on 14 February 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 as well as the 15 November 2022 advisory opinion (AO) furnished by the Marine Corps Military Personnel Law Branch (JPL), and 21 November 2022 AO furnished by the Licensed Clinical Psychologist and your response.

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 your 2 February 2021 Administrative Remarks (page 11) counseling entry. You also request promotion to Gunnery Sergeant (GySgt/E-7). The Board considered your contention that you were selected for promotion to E-7, however, the promotion entry was deleted and you were discharged. You claim that you submitted a request to the Navy Discharge Review Board to upgrade your discharge and to remove a fraudulently signed 6105 counseling entry. You claim that you were struggling with the recent death of your mother and were attempting to seek help for suicidal ideation. You also provided a statement regarding the circumstances leading to your incarceration and separation. In your response to the AO, you questioned why you would sign a 6105 counseling entry and not

sign your DD 214 on the same date. As evidence, you furnished a Marine Corps Total Force System (MCTFS) entry noting “member selected as result of the FY20 GySgt selection board.”

The Board, however, substantially concurred with the AO that your record should remain unchanged. In this regard, the Board noted that there is other evidence indicating that you were not selected for promotion, specifically, your name does not appear on MARADMIN 496/20, the FY 2020 Marine Corps GySgt selection list. The Board determined that MARADMIN 496/20 constitutes sufficient evidence that you were not selected for promotion to GySgt and found the MCTFS “history statement” is insufficient to conclude that you were selected for promotion. Regardless, even if you were selected, according to the Marine Corps Enlisted Promotions Manual, a Marine is not considered promoted until a warrant is delivered by a commissioned officer at an appropriate ceremony. In addition, selection MARADMINs outline other requirements, such as must have at least 24 months of obligated service remaining on contract beginning on the date of promotion.

Concerning your 2 February 2021 counseling entry, the Board found no evidence that your counseling entry is “fraudulent” or that your signature was forged, and you provided none. 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

2/16/2023

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Deputy Director
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