

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 7346-22 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.

A three-member panel of the Board, sitting in executive session, considered your application on 15 November 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 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 reviewed your request for reinstatement of your commission in the grade of Captain for further consideration for promotion to Major. The Board considered your contention that unbeknownst to you, you were considered and passed for promotion to the grade of major on two occasions. You assert that you were unaware of the non-selections and in 2022, you joined a Selective Marine Corps Reserve (SMCR) unit to continue to serve and pursue retirement. You claim you have outstanding and honorable service, including personal awards and combat deployments, six satisfactory years completed, and you have all prerequisites for promotion.

The Board, however, determined that, in accordance with the Officer Promotion Manual (MCO P1400.31C w/Ch 1) and Title 10, United States Code, Sections 14505 and 13513, you were appropriately notified by the Commandant of the Marine Corps (CMC) (MMSR-5) that your second failure of selection to the grade of Major constituted grounds for your separation. The

Board noted that MMSR-5 notified you of your option to resign in lieu of involuntary separation. In response, you submitted a request for resignation from the Marine Corps Reserve, which was approved by CMC on 20 October 2022, with an effective date of 1 December 2022. The Board was not convinced that you did not know of your non-selections to the grade of major and, despite your actions to join a SMCR unit to continue to serve and pursue retirement, it was your responsibility to have exercised due diligence in adhering to the guidance published in Marine Administrative messages regarding the convening of the respective promotion selection boards. Accordingly, given the totality of the circumstances, the Board determined that your request 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.

