



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

█  
Docket No: 7604-22

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 15 November 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.

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.

You previously applied to this Board requesting to be retroactively promoted to Lieutenant Commander (LCDR/O-4) and were denied on 28 May 2020.

The Board carefully reconsidered your request to reinstate your promotion to LCDR/O-4. The Board considered your contention that the removal of your name from the promotion list stemmed from a diagnosed medical condition that resulted in serious hospitalizations and treatment. You expressed concerns of the previous Board's statement regarding the selection board not having an opportunity to review adverse material and the deferral of your promotion for consideration by a future promotion board, when the underlying cause of your Detachment for Cause (DFC) was a psychotic break. You claim that in your retirement letter from the Navy Personnel Command (PERS-8), the Captain that signed the letter wished you his best and that

you would continue to support the Navy in your retirement. You also claim that you have worked to support the Navy as the Captain requested.

The Board, however, substantially concurred the previous Board's determination that your DFC from [REDACTED] and your removal from the promotion list were valid actions supported by a preponderance of evidence. The Board noted that the significant event that resulted in the delay of your promotion and subsequent removal of your name from the FY-13 Active Duty Navy Lieutenant Commander Line (URL) Promotion Board list was not considered by that Board. The Board did not believe that the FY-13 promotion board would have selected you if they had knowledge of the significant event, regardless of the underlying cause. The Board also noted that, pursuant to Title 10 U.S.C. § 579, an officer whose name is removed from the list of officers recommended for promotion by a selection board continues to be eligible for consideration for promotion. The Board also determined that the Chief of Naval Operations (CNO) and the Secretary of the Navy (SECNAV) acted within their discretionary authority by removing your name from the promotion list and permitting a subsequent promotion board to consider the totality of your record. The Board noted, too, that according to the Navy Commissioned Officer Promotion Program Instruction, commissioned officer promotions are discretionary. An officer does not have a right to be promoted and it is Department of the Navy (DON) policy to ensure that officers recommended for promotion remain mentally, physically, morally, and professionally qualified for promotion. The Board further determined that the CNO and SECNAV were authorized to consider if there was cause to believe that you may not be mentally, physically, morally, or professionally qualified for promotion to the next higher grade. Moreover, according to the 10 February 2015, Under Secretary of Defense memorandum regarding the limitation on the authority of Military Department Correction Boards, the Board does not have the authority to correct your record by showing that you have been appointed to LCDR when you were not appointed to LCDR by the President or the Secretary of Defense.

The Board also considered your post-service contributions to the Navy, but found no basis to recommend that you be considered for promotion to LCDR. Based upon the foregoing, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting your promotion to LCDR/O-4. 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.

Sincerely,

11/28/2022

[REDACTED]  
Executive Director

Signed by [REDACTED]