



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

██████████
Docket No. 7838-22
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 applications on 31 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies, as well as the 29 November 2022 Advisory Opinion (AO) provided by the Manpower Management Division Promotion Branch, Enlisted Promotions (MMPR-2). The AO was provided to you on 21 December 2022, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you chose not to 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.

The Board carefully considered your request to back date your date of rank (DOR) to the date you would have received if selected by the Fiscal Year (FY) 2021 Gunnery Sergeant (GySgt) Promotion Selection Board (PSB). The Board considered your contention that your Fitness Report (Fitrep) for the reporting period 1 January 2019 to 22 November 2019 was modified by the Headquarters Marine Corps Performance Evaluation Review Board (PERB), only after the FY 2021 PSB adjourned, and it would have strengthened your competitiveness for promotion consideration had the correction occurred prior to the FY 2021 PSB. You assert you have taken

the necessary steps to correct your military record in accordance with the Performance Evaluation System (PES) Manual and Marine Corps Promotion Manual (MARCORPROMAN).

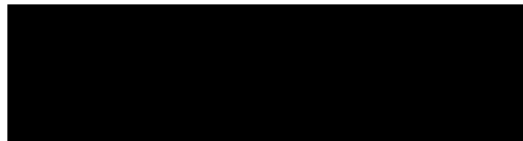
The Board, however, concurred with the AO. In this regard, the Board determined that, in accordance with PES Manual guidance and Marine Administrative Messages (MARADMINs) for the FY 2021 GySgt PSB, you were required to ensure your own service record was complete and accurate prior to the convening of the FY 2021 GySgt PSB. Furthermore, in accordance with the MARCORPROMAN, Marines are required to exercise due diligence in identifying errors, discrepancies, or an injustice in a timely manner and initiate appropriate action prior to the convening of the selection board which considered, but did not select the Marine.

The Board noted the PERB's correction to your Fitrep, however, the Board determined that you were aware of the error prior to the convening of the FY 2021 PSB, and that your request for modification of the Fitrep was submitted approximately one year after the FY 2021 GySgt PSB convened. The Board determined that you failed to provide any evidence to show you exercised due diligence in correcting your record prior to the convening of the FY 2021 GySgt PSB. Furthermore, the MARADMINs noted above provide guidance and notice of your responsibility to ensure your service record is accurate, and if not, the measures to take to correct it. The Board was not convinced you took the necessary steps prior to the convening of the FY 2021 GySgt PSB to demonstrate due diligence, or that the modified Fitrep was the sole reason for your non-selection. The Board thus concluded that your request is lacking in sufficient evidence of a material probable error, substantive inaccuracy or injustice, warranting the back dating of your DOR.

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,

3/2/2023

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Deputy Director

Signed by: 