



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

█  
Docket No. 8482-22  
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 7 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.

The Board carefully considered your request to remove your fitness report for the reporting period 16 November 2019 to 2 October 2020. You also request advancement to E-7 effective during the Fiscal Year (FY) 2021 Navy E-7 Active Duty promotion selection board (PSB). The Board considered your contention that withdrawal of the recommendation for advancement was inaccurate, unjust, and wrongly submitted, because it was premised on a falsified document. You claim that your record was reviewed by a selection board, you were selected for promotion, and your reputation for excellence in the performance of your duties is well-documented. You assert that, if not for the erroneous evaluation, you would have been promoted to E-7. As evidence, you furnished correspondence from your former supervisor stating that the investigation report on which the decision to withdraw your recommendation for advancement was based, was falsified.

The Board substantially concurred with the previous advisory opinions (AOs) and Board decision that your record remain unchanged. The Board noted the allegation that you engaged in prohibited activities during a recruiting relationship with an officer candidate. According to the

Disciplinary Review Board (DRB) transcript, you admitted to violating policy by using your cell phone to communicate with an officer candidate. As a result, your Commanding Officer (CO) issued a Letter of Instruction (LOI) counseling you for making a poor decision to start and maintain communication with a Navy applicant using your personal cellphone, which is prohibited. In addition, the CO revoked your Basic and Advance Recruiting qualifications and you were removed as an officer recruiter. The Board was not persuaded by the correspondence from your former supervisor. In this regard, the Board found no evidence that the investigation report was falsified and none was provided. The Board determined that the CO acted within his discretionary authority and according to the Navy Performance Evaluation System Manual when he withdrew his recommendation for advancement. The Board also determined that your admission to violating policy during the DRB was sufficient evidence of misconduct in support of your CO's decision that the LOI, withdrawal of his recommendation for advancement, revocation of your recruiting qualifications, and removal as an officer recruiter was warranted.

Concerning your request for promotion to E-7, the Board noted that your CO withdrew his recommendation for advancement on 2 October 2020, and the Navy Active Duty E-7 PSB convened on 5 October 2020. The Board determined that the recommendation for advancement was removed before the PSB convened. Moreover, pursuant to the Advancement Manual for Enlisted Personnel of the U.S. Navy and U.S. Navy Reserve, advancement to E-7, E-8, and E-9 requires selection board action. The Board found no evidence that you were considered or selected for promotion to E-7 by an appropriately convened promotion board 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.

Sincerely,

2/16/2023

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Deputy Director

Signed by: █