



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

█  
Docket No. 9440-22

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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 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 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 for remedial promotion consideration by the Fiscal Year (FY) 2016 and FY 2017 Sergeant Major through Master Sergeant Staff Non-Commissioned Officer (E-9) enlisted remedial selection board (ERSB). If approved, you request an updated DD 214 and back pay and allowances. The Board considered your statement that during January 2018, you received notification that your fitness report covering the reporting period 1 July 2012 to 30 June 2013 was removed from your record. You contend that with this unjust fitness report removed from your record and Master Brief Sheet updated, your record demonstrates that you were competitive for promotion and would have been selected for promotion to the rank of Master Gunnery Sergeant when the promotion boards were held. You acknowledged that a significant amount of time has passed from the notification you received.

The Board noted that a previous Board granted relief by removing your fitness report for the reporting period 1 July 2012 to 30 June 2013. The Board also noted that you were properly considered for promotion by the FY 2016 and FY 2017 E-9 promotion selection boards and you were not selected for promotion. The Board noted, too, that the Marine Corps Enlisted



Promotion Manual requires due diligence, whereby a Marine must identify errors, discrepancies, or an injustice in his or her record in a timely manner and initiate appropriate corrective action. In addition, a Marine’s request for remedial consideration must detail the steps taken to ensure the completeness and accuracy of his or her official record prior to the convening of the selection board which considered but did not select the Marine. The Board noted, too, that the FY 2016 E-9 promotion selection board convened on 21 October 2015 and although your fitness report was included in your record during 2013, your application to remove the fitness report was not submitted until 30 May 2016. In addition, applications for an ERSB must be received no later than three years after the date the contested board results were made public, and Marines “who have been discharged, transferred to the FMCR . . . are not eligible for consideration by the ERSB.” The Board determined that you failed to demonstrate due diligence and although your request for corrective action was submitted before the FY 2017 E-9 PSB convened, your request for an ERSB is not timely and because you were transferred to the FMCR, you are ineligible for ERSB consideration. Accordingly, the Board found no basis to grant an exception to policy, and 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,

2/8/2023



Deputy Director

Signed by: 