



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

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Docket No. 2115-23
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 21 March 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.

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.

The Board carefully considered your request remove your failure of selection. The Board considered that you were selected for promotion by the Fiscal Year (FY) 2018 Major special selection board (SSB) and granted a 1 October 2017 date of rank. You contend that this delay in relief created administrative errors of fact because you continued to be reported on as a captain for nine months despite your record showing that you were a major. You also contend that this material administrative error represented a material error of fact in your record and negatively affected your selection on the FY 2024 Lieutenant Colonel (LtCol/O-5) Promotion Selection Board because you were unable to be assigned to billets or receive fitness reports in the grade of major until 16 July 2018 which put you in an unjust competitive disadvantage.

The Board, however, determined that no relief is warranted. In this regard, the Board noted that your fitness reports accurately evaluated your performance while serving in the grade of captain when they were written and processed. The Board determined that your performance and conduct were properly evaluated against Marine officers of the same grade. The Board also determined that there are no provisions in regulations or law to remedy or modify a service member's record after they have been granted an adjusted date of rank. In addition, there is no evidence that the adjustment to your date or rank caused you to fail selection for promotion to LtCol. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

3/31/2023

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Deputy Director

Signed by: █