



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. 2928-23
Ref: Signature Date



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 27 April 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 to change your date of rank (DOR) in the grade of Sergeant Major (SgtMaj/E-9) from 1 January 2023 to a DOR as if you had been selected during the Fiscal Year (FY) 2021 USMC SgtMaj/Master Gunnery Sergeant Promotion Selection Board (E-9 PSB). You also request entitlement to back pay and allowances. The Board considered your contention that an Administrative Remarks 6105 counseling entry and adverse fitness report were issued and submitted for inclusion in your record 60 days before the FY 2021 USMC E-9 PSB convened. You claim that your performance record and promotion board statistics demonstrate that your career performance evaluations were well within the selection rate and you performed your duties and responsibilities well above your E-8 peers. As evidence, you provided correspondence from the commanding officer (CO) that issued the counseling entry and fitness report requesting that you be granted full consideration for retroactive promotion.

The Board noted that you were considered (in-zone) by the FY 2021 USMC E-9 PSB, the PSB convened on 20 October 2020 and you were not selected. You were also considered (above-zone) by the FY 2022 USMC E-9 PSB, the PSB convened on 19 October 2021 and you were not selected. On 26 August 2022, you contacted your former CO requesting a letter of recommendation for the FY 2023 USMC E-9 PSB. On 15 September 2022, your former CO submitted correspondence to the President of the FY 2023 USMC E-9 PSB, you were considered (above-zone) and you were selected for promotion to E-9. Subsequently, on 11 October 2022, this Board directed the removal of your 24 August 2020 counseling entry, and on 20 December 2022, the Marine Corps Performance Evaluation Review Board (PERB) approved a correction to your record by removing your adverse fitness report for the reporting period 1 July 2020 to 24 August 2020.

The Board, however, found your evidence insufficient to conclude that you would have been promoted on an earlier PSB, and found your arguments speculative. The Board noted that the Marine Corps Promotions Manual, Enlisted Promotions requires a Marine to identify errors, discrepancies, or injustices in their record in a timely manner and initiate appropriate corrective action. The Board found no evidence that you exercised due diligence to correct your record until after you twice failed selection during the FY 2021 and FY 2022 USMC E-9 PSBs. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting the a change to your DOR or back pay and allowances. 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,

5/18/2023

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