



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

█
Docket No. 3630-23
Ref: Signature date



Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552.

A three-member panel of the Board, sitting in executive session, considered your application on 16 May 2023. After careful and conscientious consideration of the entire record, the Board determined it would not be in the interest of justice to excuse your failure to submit your application in a timely manner. The names and votes of the Board members will be furnished upon request.

You retired from the Fleet Marine Corps Reserve in 1994 with an Honorable characterization of service. According to your application, you discovered the alleged error or injustice in 1986. However, you did not file your application with this Board until 2023, almost 40 years later.

In your application, you stated that “my delay in coming forward was that I found out within the last forty-eight hours that I could request to be promoted to E-9 if my service record indicate (sic) that I was eligible for promotion prior to my untimely retirement.” You also discuss the receipt of a fitness report that allegedly prevented your promotion to E-9. The Board determined your justification for delaying your application to this Board was insufficient to waive the statute of limitations in your case since there was no evidence provided that indicates you were unable to file your application within the three years from when you received the fitness report in question. Based on your experience and paygrade at the time of your retirement, the Board was not persuaded by your arguments regarding your recent acquisition of knowledge. Accordingly, the Board applied the statute of limitation in your case and denied your request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon the 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,

6/5/2023

