



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

█
Docket No. 4447-23
Ref: Signature Date

█
█
█

Dear █

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 28 September 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. In addition, the Board considered the advisory opinion by Headquarters Marine Corps MMPR-2 of 17 August 2023, which was previously provided to you for comment.

The Board determined that your personal appearance, with or without counsel, would 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.

You requested promotion to Sergeant/E-5 with contentions that you were wrongfully not recommended for promotion due to weight gain created by prescribe medication. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that in accordance with Marine Corps Order P1400.32D, the decision to promote to the grades of Private First Class through Sergeant rests solely with those commanders designated. A Marine will not be promoted if, in the opinion of the commander, the Marine is not capable of performing satisfactorily in the higher grade, even though all other requirements have been met.

A review of your record reflects you were promoted to Corporal/E-4 on 1 January 2008. Your official military personnel file (OMPF) contains three separate Page 11, Administrative Remarks notifications, 15 May, 13 July and 11 September of 2009 indicating that you were eligible but not recommended for promotion to Sergeant for the June, August, and October 2009 promotion periods. You initialed each Page 11 acknowledging you were counseled and you elected not to make a rebuttal to those entries. You transferred to the Temporary Disability Retired List on 28 February 2010 and thereafter transferred to the Permanent Disability Retired List effective 1 June 2014. The Board could not find, nor did provide evidence of your weight gain due to prescribed medication. Therefore, a change to your record is not warranted. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

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,

10/6/2023

