



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. 6612-23
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 16 November 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, as well as the 18 September 2023 Advisory Opinion (AO) provided by Headquarters Marine Corps (Manpower and Reserve Affairs), a copy of which was emailed on 4 October 2023 to the Department of Veterans Affairs Representative listed on your application. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to correct your Certificate of Release or Discharge from Active Duty (DD Form 214) by changing your grade/rank from Corporal/E-4. Additionally, in your statement, you mentioned your desire to "be made Sergeant as [you were] before all this." You contend you should not have been demoted to Corporal when nonjudicial punishment (NJP) was imposed in May 1975. Specifically, you contend that at the last minute, after you had already "received permission" to go home and get married the weekend of 17 May 1975, the Master Sergeant scheduled you for duty and refused to give you the day off to get married, despite the fact you had two different Sergeants willing to stand duty in your place. Because all the arrangements

had been made and you could not disappoint your family and “soon-to-be wife,” you “made the decision to leave base and go get married.” Further, you contend you “loved being a Marine” but your NJP “stopped [you] from reenlisting.”

The Board, however, substantially concurred with the AO and determined there is insufficient evidence of a material error or injustice warranting correction of your final rank/paygrade. The Board noted your Commanding Officer was well within his rights to reduce you in rank at NJP. The Board carefully reviewed the circumstances, as explained in your statement, leading to the 29 May 1975 NJP and determined there was insufficient evidence of an error or injustice. Further, the Board noted NJP was again imposed, on 18 June 1975, when you violated an order by failing to be at your appointed place of duty. Based on the available evidence, the Board concluded there was insufficient evidence of an error or injustice warranting your reinstatement to Sergeant /E-5. 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,

12/10/2023

