



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

██████████  
Docket No. 7770-23  
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 for Correction of Naval Records, sitting in executive session, considered your application 26 September 2023. The names and votes of the members of the panel will be furnished upon request. Your allegations of 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.

You enlisted into the U.S. Marine Corps on 24 January 1996. On 24 June 2008, Headquarters, U.S. Marine Corps removed two (2) fitness reports for the reporting periods 1 July 2002 to 31 March 2003 and 1 April 2003 to 18 August 2003 from your official record and replaced them with admin fillers. You were discharged, on 30 November 2008, at the rank of sergeant with an Honorable characterization of service after completion of required active service.

The Board carefully reviewed your request for promotion consideration to the rank of staff sergeant (SSgt). The Board considered your contentions that you endured two double signed (adverse) fitness reports in combat that were removed five years later. You believe these two fitness reports kept you from being competitive for SSgt. You state that you did not have enough time on active duty upon discovery of the error or injustice to submit an application as you had spinal surgery in June 2008 and separated five months later.

After careful consideration, the Board determined that your reasoning for your late submission was insufficient, as you had considerable time to submit your application upon discovery. The

Board did, however, conduct a review of your military records, to include the evidence you provided in support of your application, and determined that in accordance with the MCO P1400.32D Change 2 (Marine Corps Enlisted Promotion Manual), you are ineligible for remedial consideration due to your separation from active duty. Regarding your contention that adverse fitness reports caused you to be non-competitive for promotion to SSgt, the Board determined that you provided no evidence of material error to support your contention. As such, the Board concluded that there is no probably material error, substantive inaccuracy or injustice warranting your promotion to SSgt. 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,

10/24/2023

