



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

██████████
Docket No. 8837-23
Ref: Signature Date

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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.

A three-member panel of the Board, sitting in executive session, considered your application on 28 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.

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.

The Board carefully considered your request to remove your failure of selection (FOS) to Captain for the Fiscal Year (FY) 2024 Captain Promotion Selection Board, and grant you a Special Selection Board (SSB). The Board considered your contentions that you believe you were discriminated against due to your religious objections to refusing the COVID-19 Vaccine and, at the time, your leadership refused to give you any career guidance except for "Prepare to be discharged." As a result, you claim that your fitness reports suffered. You believe your leadership failed to utilize you as a Supply Officer and simply tucked you away in an office, giving you minimal tasks until your case was finally adjudicated. Although you exceeded the tasks given, nothing of substance was added to your fitness reports. You further claims you spoke with the Equal Opportunity Advisor about this discrimination and they told you that they could not help you because they do not deal with promotion matters. You further believer you should receive an SSB and be promoted with your peer group.

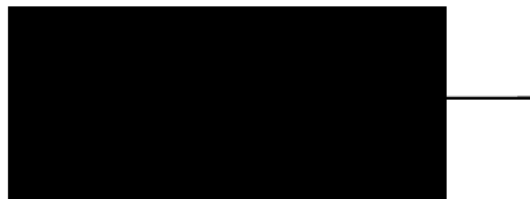
You attest that your performance has increased and you are performing at the level of a junior captain. You state you were selected for Career Designation, accepted it, and plan to continue your service in the U.S. Marine Corps in order to lead Marines and excel at your military occupational specialty. As evidence to support your contentions, you submitted a letter you provided to the FY 2023 Career Designation Panel, which documented your performance, for consideration.

The Board, however determined that you failed to provide sufficient evidence to support your contentions. In this case, you provided no evidence that you were the subject of adverse action and that there was material or administrative error or unfairness during the FY 2024 Captain Promotion Selection Board. Furthermore, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of sufficient evidence to the contrary, will presume that they have properly discharged their official duties. The Board, in making their decision, acknowledged the evidence you provided, and despite your objections, found your evidence insufficient to overcome this presumption. Concerning your request to be granted a SSB, the Board determined that you have not exhausted your administrative remedies. The Commandant of the Marine Corps (MMPR-1) is the initial action agency for requesting an SSB, therefore you must submit your request to MMPR-1. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

12/17/2023

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