



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

█  
Docket No. 10480-23  
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 27 February 2024. 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 carefully considered your request to adjust your date of rank for promotion to Major (Maj/O-4), grant entitlements according to SECNAVINST 1402.1B, recover lost inactive duty days, grant an active duty retirement, reconstitute sold leave, and exempt you from repaying separation pay. The Board considered your contention that there was a material error during the fiscal year (FY) 2017 selection board. Previously, the Marine Corps Training Information Management System (MCTIMS), Marine On-Line (MOL), and your official military personnel file (OMPF) reflected that you failed to run a physical fitness test (PFT) (FDNR) instead of reflecting not medically qualified. You claim that you were granted an FY 2017 Special Selection Board (SSB), however the SSB denied a retroactive promotion. You also contend that SECNAVINST 1402.1B and SECNAVINST 1401.3B speak to the fact that it is “the Officers responsibility to ensure their personnel records are substantially accurate and complete.” You were denied an opportunity to view your redacted record, as it would have been presented to the SSB. You were told that according to 10 U.S.C. Section 613a such records could not be provided. You argue that the input of your record should not be a legally protected item per this statute. Additionally, 10 U.S. C. Section 615 provides, “[b]efore information regarding an eligible officer is furnished to a selection board, the Secretary of the military department concerned shall ensure (i) that such information is made available to such officer; and (ii) that the

officer is afforded a reasonable opportunity to submit comments on that information to the selection board.”

The Board noted the chronology of events provided in your previous application. Specifically, on 8 August 2016, you “confirmed all records accurately reflected the change” to your record. You explained that this took several weeks for the administrative change to reflect in MCTIMS, MOL, and your OMPF. The Board also noted that the FY 2017 SSB convened more than five years later on 19 October 2021, and you were not selected. Subsequently, the record of proceedings for the FY 2017 Active Duty Maj SSB was reviewed and approved by the Assistant Secretary of the Navy.

The Board also noted that 10 U.S.C. Section 613a pertains to the nondisclosure of board proceedings. Specifically, “[t]he proceedings of a selection board convened under section . . . of this title may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board.” The Board determined that the Marine Corps had no statutory obligation to provide you with any information from the SSB proceedings. The Board also determined that your reliance on 10 U.S.C. Section 615 is misguided. Paragraph (7) of 10 U.S.C. Section 615 pertains to information described in paragraphs (2)(B) or (3) regarding an eligible officers information furnished to a selection board. Specifically, paragraph (2)(B) and (3) pertains in part, to information “. . . to be substantiated, relevant information that could reasonably and materially affect the deliberations of the selection board” and “any credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry.” The fore mentioned information may only be made available to promotion boards if the officer has had the opportunity to review the adverse material and has had the opportunity to provide a response. In your case, your record contained no substantiated, adverse material, investigations or inquiries. The Board thus determined that your argument regarding 10 U.S.C 615 lacks merit.

The Board noted that the FY 2017 promotion guidance message was released on 21 April 2015, the message specifically informed Marine officers that, “[e]ach officer is personally responsible for ensuring the accuracy and completeness of their Official Military Personnel File and Master Brief Sheet before the date the board convenes.” The Board determined that you had sufficient notice to review your record, your own statement confirmed that your record was corrected prior to the SSB, and this Board found no evidence that you were unable or restricted from reviewing your OMPF, MOL, or MCTIMS prior to the convening of the SSB. According to SECNAVINST 1402.1, your record would have been modified as necessary to reflect your record as it would have appeared to the FY 2017 board that considered you. SECNAVINST 1402.1 also states, “[s]ubsequent applications from the same officer for the same contested [promotion selection board] will not be considered unless the officer can show that the subsequent application raises significant new facts or evidence regarding the officer's non-selection, and that the facts or evidence were not known by the officer at the time of the initial application, and could not have been discovered at the time of the initial application by an officer maintaining reasonably careful records.” The Board determined that your request does not meet the requirements set forth in the SECNAVINST. The Board found no significant new facts or evidence, nor did it find any evidence not known at the time of the initial application. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers

and in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

3/11/2024

