



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

[REDACTED]
Docket No. 2911-16
OCT 09 2017³⁷⁷⁻¹²

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 U.S.C. §1552. You were previously denied relief by this Board on 28 March 2013. Your case was reconsidered in accordance with procedures that conform to *Lipsman v. Secretary of the Army*, 335 F. Supp. 2d 48 (D.D.C. 2004).

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 June 2017. 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. However, after careful and conscientious consideration of the entire record, the Board determined that while your request does contain new information not previously considered by the Board, it does not warrant relief. Accordingly, your request has been denied.

The Board carefully considered your argument to remove a non-dated Administrative Remarks (6105) entry, Administrative Remarks (6105) dated 27 April 2009 and rebuttal statement dated 30 April 2009 which was placed in your Official Military Personnel File (OMPF). You assert that based on an injustice, you deserve to have the Administrative Remarks (6105) entries and rebuttal statement be removed from your OMPF. In addition, you requested the removal of the Body Composition Program (BCP) assignment entry from the Marine Corps Total Force System. You state that your improper placement in the BCP assignment was due to a violation of policy that governed the Marine Corps Body Composition and Military Program. Unfortunately, the Board disagreed with your rationale for relief. First, the Board could not find evidence which demonstrates that an error or an injustice had occurred via the Administrative Remarks (6105) entry which placed you in the BCP assignment. The non-dated Administrative Remarks (6105) entry served as a counseling regarding your placement in the BCP assignment which was contributed to your unsatisfactory weight and body composition of 239 lbs and 22 percent body fat. The Administrative Remarks entry dated 27 April 2009 provided a non-recommendation for

promotion due to your inability to comply with the Marine Corps' height and weight standards. Second, you willingly acknowledged that you were not in compliance with the Marine Corps' height and weight policy prior to your medical evaluation. You accepted your assignment in the BCP program on 13 May 2009. Finally, you provided three witness statements that recommended relief; however, these statements provide inaccurate and inconsistent information regarding your case. Although administrative errors and procedural inconsistencies could have existed during the BCP assignment process, the Administrative Remarks (6105) entry demonstrates that you were not in compliance with the Marine Corps' height and weight standards. In this connection, the Board determined no change to your record was warranted.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken again. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously considered by the Board. In the absence of sufficient new and material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director