



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

[REDACTED]  
Docket No: 3838-16/  
7213-14  
7 Dec 2016


[REDACTED]  
Dear [REDACTED]

This is in reference to your latest reconsideration request dated 19 April 2016. You previously petitioned the Board and were advised in our letter dated 21 May 2015 that your application was disapproved. Your case was reconsidered in accordance with Board for Correction of Naval Records procedures that conform to *Lipsman v. Secretary of Army*, 335 F. Supp. 2d 48 (D.D.C. 2004).

Regarding your request for a personal appearance, Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your most recent application based on the new evidence provided. In this regard, your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records, sitting in executive session on 29 November 2016. The names and votes of the members of the panel will be furnished upon request. Documentary material considered by the Board consisted of your application and any material submitted in support of your application.

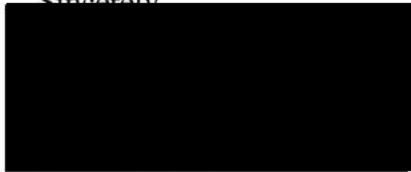
After careful and conscientious consideration of the entire record, the Board determined that the statements you provided were insufficient to establish the existence of probable material error or injustice. A review of your recent application and attachments reveal that again your request must be denied. In this regard, the Board believed your contention that you never received notification from Headquarters, Marine Corps regarding the requirement of evidence that you were physically qualified for promotion. The Board also believed, based on the evidence you provided, that you were physically qualified for promotion to Captain/O3 in the Marine Corps Reserve. However, although the Board believed that you sufficiently demonstrated that you would have been physically qualified for promotion, the Board found it immaterial. Specifically, the Board noted that you fulfilled your service obligation on 28 February 1981. At that time, because you were not a drilling Reservist, Marine Forces Reserve would have notified you for

  
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not meeting participation requirements and would have given you the option to either resign your commission, to be transferred to the inactive status list (ISL), or to request a one-time waiver for nonparticipation. Although the documents are not in your record, it appears that you opted for resignation, because on 28 June 1981, the record shows that you resigned your commission. In this regard, per Title 10 U.S. Code, a reserve officer permanently separated or placed in an inactive status, after having been recommended for promotion to a higher grade but before being promoted, shall be treated as if the officer had not been considered and recommended for promotion by the selection board. The Board noted that you resigned your commission on a date prior to your projected promotion date; therefore, your selection to captain was nullified. The Board noted that, even if you did not resign your commission, and because you did not request a waiver, you would have been placed on the ISL. In that case as well, your selection to captain would have been nullified. Accordingly, your application has been denied.

In the absence of sufficient material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to initiate action, at no cost to the Board, to a court of appropriate jurisdiction.

Sincerely,

  
Executive Director