



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

██████████  
Docket No. 5175-23  
Ref: Signature Date

████████████████████  
██  
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Dear Petitioner:

This letter is in reference to your application for correction of his naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found that the evidence submitted was 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 December 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, as well as the 1 November 2023 Advisory Opinion (AO) provided by the Manpower Management Performance Branch (MMPB-11) and your response to the AO.

The Board carefully considered your request for reinstatement to the rank of sergeant (Sgt/E-5). The Board considered your contention that you were told you could walk away from the Reserves at any time without repercussions. You claim that you had personal issues going on during this time, and you communicated your intentions not continue with the Reserves to the Staff Non-commissioned Officer. In response to the AO, you claim that you never missed multiple drills and the ones you could not attend were made up the following week and documented accordingly.

The Board, however substantially concurred with the AO that your reduction in rank was in accordance with the Marine Corps Enlisted Promotions Manual. In this regard, the Board noted that your fitness report for the reporting period 1 October 2005 to 7 May 2006 indicates that you were the subject of a Competency Review Board (CRB) for multiple unauthorized absences (UAs) and unsatisfactory participation; consequently, you were reduced to the rank of corporal (Cpl/E-4). The Board also noted that your record contains multiple counseling entries documenting your periods of UA and unsatisfactory participation during 2005, 2006, and 2007.

The Board determined your Commanding Officer acted within his discretionary authority when conducting your CRB and reducing you in rank to Cpl. Moreover, the Marine Corps Enlisted Promotions Manual authorizes commanders to administratively reduced members of the Reserve component when they fail to meet the prescribed annual training requirements. The Board found no evidence that you “did not missed multiple drills and that you made up the drills you could not attend” and you provided none. The Board relies on a presumption of regularity to support the official actions of public officers, 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,

1/11/2024

