



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

█  
Docket No. 248-24  
Ref: Signature Date

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█  
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Dear Petitioner:

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.

Although you did not file your application in a timely manner, the statute of limitation was waived. A three-member panel of the Board, sitting in executive session, considered your application on 19 April 2024. The names and votes of the panel members 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. Additionally, the Board also considered an advisory opinion (AO) furnished by the Navy Department Board of Decorations and Medals and your response to the AO.

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.

On 1 August 1988, you retired from the U.S. Marine Corps at the grade of Colonel (O-6). On or about 26 October 1968, the Commanding Officer (CO) for █ submitted a recommendation to higher authority that you be awarded the Distinguished Flying Cross ("DFC") for extraordinary achievement or heroism while participating in aerial flight your actions on 22 August 1968. On or about 1 November 1968, the CO for █ concurred and routed the request to higher authority that you be awarded a DFC for your actions on 22 August 1968.

On 18 December 1968, the Commanding General (CG), ██████████, favorably endorsed the DFC, and forwarded his recommendation to the CG, ██████████, for final action. However, on 12 February 1969, the ██████████ downgraded your DFC nomination and instead awarded you the Air Medal (Gold Star in Lieu of Second Award), for heroic achievement in aerial flight.

In short, you argued that you failed to receive the DFC and instead received the AM, in part, because a disgruntled and reassigned officer from your squadron now sitting on the ██████████ Awards Board approved a DFC for himself, but improperly influenced the Awards Board to only award AMs for all of the other officers involved in the same mission on 22 August 1968.

As part of the review process, the Board requested an opinion from the Navy Department Board of Decorations and Medals (NDBDM). On 3 April 2024, the NDBDM opined, after reviewing all of the available evidence and the pertinent policies, procedures, and past practices, that you were not entitled to the DFC.

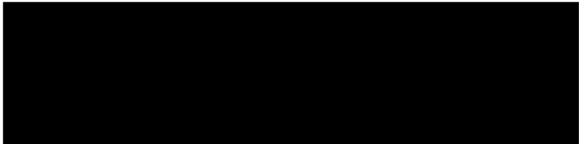
The NDBDM reviewed your DFC nomination and the available evidence. The NDBDM observed and noted that the CG of the ██████████ favorably endorsed your DFC nomination. Thus, the NDBDM concluded that was prima facie evidence that your contention ██████████ improperly influenced the Awards Board to be without merit given that no one at the ██████████ legal downgraded your DFC nomination. The NDBDM also determined you failed to present any new, substantive, and materially relevant evidence not reasonably available when your AM was approved, or any evidence of impropriety or material error in the processing and adjudication of such nomination in 1968-69. Based on the presumption of regularity in government affairs, the NDBDM determined your official records were accurate and complete. The NDBDM concluded by opining that you failed to present sufficient evidence to overcome the presumption of regularity and that relief was not warranted in your case. Lastly, the NDBDM determined your petition was untimely and inexplicably so.

The Board, in its review of the entire record and petition, considered your contentions and your materials submitted, including your AO rebuttal. However, the Board determined, even after reviewing the evidence in the light most favorable to you, that at the present time you do not merit a DFC. The Board concurred with the NDBDM's overall assessment and determination that your award was not improperly influenced by anyone on the ██████████ Awards Board. The fact that the CG for the ██████████ favorably endorsed your DFC nomination negated and dispelled any suggestion that ██████████ improperly influenced the Awards Board in any way whatsoever. The Board also determined that you did not submit sufficient evidence to overcome the presumption of regularity with government affairs that the actions taken in downgrading your DFC and instead approving your AM were appropriate.

The BCNR sincerely appreciates, respects, and commends you for your Honorable and faithful service in Vietnam and over your entire distinguished military career. 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, \_\_\_\_\_  
4/24/2024



Executive Director  
Signed by: \_\_\_\_\_