



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

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Docket No. 1304-24
Ref: Signature Date

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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.

A three-member panel of the Board, sitting in executive session, considered your application on 9 July 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 as well as the 19 March 2024 advisory opinion (AO) provided by the Navy Personnel Command (PERS-80). The AO was provided to you on 14 May 2024, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to restore your promotion to lieutenant commander (LCDR/O-4). The Board considered that you declined promotion to LCDR based on family needs. You claim family dynamics changed and you gained the support needed to continue with your military career. You also claim that your designator is undermanned by 25 percent, allowing you to take the promotion will have an immediate impact to the Navy's strength goals and a lasting impact on the Navy. Additionally, you are facing mandatory retirement on 1 August 2024 unless your promotion is approved.

The Board, however substantially concurred with the AO that there is no guidance or authority to effect a promotion after an officer has declined that promotion. In this regard, the Board noted that you were selected for promotion to LCDR by the Fiscal Year 2024 Active Duty Navy LCDR Staff Corps promotion selection board (PSB). The Board also noted on 1 October 2023, you

declined permanent appointment to LCDR. The Board determined your declination constituted a failure of selection. According to SECNAVINST 1420.3, officers who are selected for promotion to the grade of O-6 or below, but decline the appointment, will be above-zone for any subsequent PSB in that grade and competitive category. 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,

7/19/2024

