



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

██████████
Docket No. 2016-24
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 26 March 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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.

The Board carefully considered your request to backdate your promotion to lieutenant colonel effective 1 December 2021 instead of 1 August 2022. The Board considered your contention that an email from a Fiscal Year (FY) 2022 board member revealed that the promotion board weighted academic performance less for some officers during deliberations. The email also revealed that board members placed more weight on performance in leadership assignments than non-leadership assignments. You claim this violated promotion board instructions that required them to weigh performance in all assignments equally. You also claim that you served involuntarily in three consecutive non-leadership and academic assignments from 2012 to 2019.

The Board noted that ██████████ a former FY 2022 promotion selection board (PSB) member, provided Professional Military Education about the Marine Corps officer promotion process. Based on your request, ██████████ reviewed your Master Brief Sheet and provided you with feedback. The Board determined that ██████████ feedback to you constituted his personal observations and opinions of your

performance record. His comments were not a reveal or indictment of the deliberations by the FY 2022 PSB. Moreover, according to 10 U.S.C. Section 14105, “the proceedings of a selection board . . . may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board.” The Board also noted your acknowledgement of the fore mentioned prohibitions in your email to █. According to 10 U.S.C. Section 14104, “each member of a selection board convened . . . shall take an oath to perform the duties of a member of the board without prejudice or partiality.” Moreover, PSB members are charged with selecting those officers whom a majority of the members of the board consider best qualified for promotion to meet the needs of the Marine Corps. The Board also determined that your failure to be selected amongst the officers considered best qualified for promotion during the FY 2022 was not an error or injustice. The Board noted, too, that once a promotion board has adjourned, the results are reviewed by various Marine Corps and Department of Defense agencies to ensure compliance with law and policy. The Board found no evidence of impropriety during the FY 2022 PSB.

The Board relies on a presumption of regularity to support the official actions of public officers, and 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 and thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting a change to your date of rank. 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,

4/10/2024

