



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

█  
Docket No. 2034-24  
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 30 April 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 21 March 2024 Advisory Opinion (AO) provided by Navy Personnel Command (PERS-80) and your response to the AO.

The Board carefully considered your request modify your effective date of rank (DOR) for Lieutenant (LT) to 1 October 2019 with back pay and allowances. The Board considered your assertion that your name was withheld from the Fiscal Year (FY) 2018 Navy Reserve Lieutenant Junior Grade Promotion Selection List and was recently adjusted to the corrected date of 1 October 2017 by a previous Board decision. You claim that, based upon the Secretary of Defense (SECDEF) decision to correct your DOR for LTJG, the rank of LT should have automatically followed after 24 months of time in grade (TIG). You further claim that the aforementioned decision of the Board should have made you whole from the beginning based upon your adjudication of "Not Guilty" as if nothing ever happened. In response to the AO, you assert that PERS refused to assist you with correcting your effective DOR to 1 October 2017, even after it was directed by SECDEF, and that PERS had the wrong DOR in your case file, which added more time for resolution. You re-emphasized that the SECDEF decision to reinstate your promotion to LTJG with your original DOR can be interpreted by a lay person as "making this officer whole again," as determined by the All-Fully Qualified Officers List (AFQOL). Finally, you also claim that PERS should have placed you on a Special Selection Board (SSB), which would have resolved your current issue and that PERS-80's interpretation is contradictory to SECDEF's intent.

The Board noted on 8 October 2019, the Commanding Officer (CO), [REDACTED] filed a Final Civil Action Report (FCAR) concerning your arrest, on 22 September 2016, for Organized Scheme to Defraud, Grand Theft, and Official Misconduct in [REDACTED], [REDACTED]. On 23 September 2019, the charges were dismissed. According to the CO, you were not referred for non-judicial punishment (NJP) because you were not in a duty status when the events occurred. On 6 August 2020, your Board of Inquiry (BOI) unanimously determined by a preponderance of the evidence that none of the reasons specified warranted separation for cause and they recommended that you be retained.

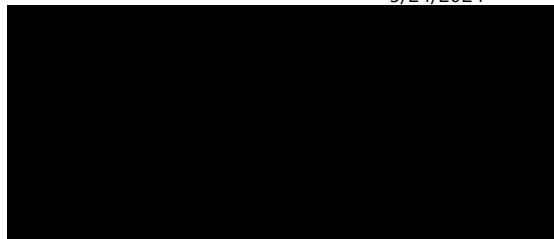
The Board substantially concurred with the AO that your promotion to LTJG was withheld in accordance with relevant policies due to adverse or reportable information. In this regard, the Board noted your promotion to LTJG was withheld for further review by the Secretary of the Navy (SECNAV) based upon adverse material. On 25 May 2022, the Assistant SECNAV, Manpower and Reserve Affairs determined that you were eligible for promotion to LTJG with an effective DOR of 1 October 2017. The Board also noted that promotion to LT is not automatic upon reaching two years time in grade. Under law, all officers undergo a formal promotion screening process, i.e. AFQOL. The Board determined that you were not eligible for consideration during the FY 2020 through FY 2022 AFQOL. When your promotion to LTJG was authorized, you became eligible for promotion to LT during the FY 2023 Navy Reserve AFQOL. The Board also determined that because you were in a promotion withhold status, and you had not yet been promoted to LTJG, you were not eligible for consideration for promotion to LT at anytime prior to the SECDEF's decision to reinstate your promotion.

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. Thus, the Board found 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,

5/24/2024

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