



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

█  
Docket No. 2152-24  
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.

The Board carefully considered your request to backdate your promotion to lieutenant colonel (LtCol/O-5) effective 1 July 2017 instead of 1 August 2020. The Board considered your contention that your record contained erroneous/unjust material when you were not selected for promotion during the Fiscal Year (FY) 2017 promotion selection board (PSB). You claim that while your initial request for backdate was denied, this request contains an updated advisory opinion (AO) from the Marine Corps Career Counselor stating you would likely have been selected on the FY 2018 PSB. If your initial request for removal of unjust material had been made, you would have been back in-zone for the FY 2018 PSB.

The Board noted that after your FY 2017 failure of selection, you petitioned the Performance Evaluation Review Board (PERB) to remove a fitness report for the reporting period 4 June 2010 to 10 May 2011 and to modify two fitness reports covering the reporting periods 1 January 2014 through 31 May 2015. The PERB approved modifications to your 1 January 2014 through 31 May 2015 fitness reports, however, your request to remove the 4 June 2010 to 10 May 2011 was denied by both the PERB and the Board. During FYs 2018, 2019, and 2020, you were above zone for promotion consideration, and not selected. After the FY 2020 PSB you successfully petitioned the PERB to remove the 4 June 2010 to 10 May 2011 fitness report, the Board subsequently granted

relief by removing your 2018, 2019, and 2020 failures of selection, and you were selected for promotion to LtCol during the FY 2021 PSB.

The Board, however substantially concurred with the previous AO and Board's decision that your selection to LtCol during FY 2021 was the cumulative effect of corrections to your record, opportunity to improve upon your performance record and removal of your failures of selection. The Board noted the AO's comment, "*if* the subject report . . . was removed . . . his record would most *likely* have received the required votes for selection." The Board determined that the AO's comments are conjecture and not supported by facts. The PERB and the Board properly considered your requests to remove your fitness report, found the evidence insufficient, and denied your requests. The PERB's subsequent decision to remove your fitness report does not concede that any prior decisions denying your requests were in error or unjust. It is the applicant's responsibility to furnish sufficient evidence to support an approval of their request. The Board 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

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