

DEPARTMENT OF THE NAVY

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

> Docket No. 3014-24 Ref: Signature Date

Dear

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 11 September 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. In addition, the Board considered the advisory opinion contained in Headquarters, United States Marine Corps memorandum 1070/MPO of 3 June 2024 and your response to the opinion.

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.

You requested reconsideration to change your naval record to reflect you did not elect to opt-in to the Blended Retirement System (BRS), or, alternatively, that you elected to receive Continuation Pay (CP) at your current rank. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. Upon review of your record, the Board concluded that you enlisted in the Marine Corps on 30 April 2009 for 8 years and entered into an officer commission program on 28 May 2009. This established your date of original entry, which grandfathered you into the legacy retirement system with the option to enroll into the BRS. You entered active duty on 6 March 2012 with a pay entry base date of 28 May 2009. For the purpose of CP eligibility, 12 years of service (YOS) is computed from the member's pay entry base date in accordance with Marine Corps Bulletin 1800 and Marine Administrative (MARADMIN) message 683/20.

On 30 December 2016, you completed the BRS Notification Training and elected to opt-into the BRS on 8 January 2018. On 9 May 2019, you submitted DD Form 149, Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552, requesting to change your naval record to reflect you never elected to opt-in to the BRS. However, on 13 November 2019, you emailed the Board stating, "[a]fter some thought about career choices that I need to soon make, it would be best for me to not pursue with the application. Would you be able to remove it from queuing to the board?" Accordingly, your application was administratively closed on 15 November 2019.

On 6 January 2020, you completed BRS Training (Lecture Method), and on 18 June 2021, you signed NAVMC 11905, Active Duty BRS CP Statement of Understanding, acknowledging the 4-year obligated service and requesting to receive CP in four installments; the form was witnessed on 22 June 2021. Both your and the witness' signature occurred after your last day to elect CP on 27 May 2021, thereby rendering you ineligible for CP in accordance with MARADMIN 683/20. Thereafter you were appointed to your current rank of Major/O-4 effective 1 September 2021.

Subsequently, you submitted another application to the Board requesting to establish entitlement to CP. The Board denied this request under Docket Number 2421-22 on 13 July 2022, indicating it was their belief that you were properly notified of your election deadline and were provided appropriate resources to ensure you had accurate information to base your decision concerning whether or not to elect CP before reaching 12 YOS.

Lastly, BRS notification was first released via MARADMIN 644/16 on 9 December 2016, followed by several updated messages and the Marine Corps Bulletin 1800 promulgated on 26 June 2018 and 25 June 2019. These policies outlined eligibility, processing, service obligation, and reference information germane to enrolling in the BRS and electing CP. Specifically, these policies indicated the election to decline or enroll in the BRS is irrevocable. Moreover, MARADMIN 683/20 specified CP for active component Marines was calculated at 2.5 times the monthly basic pay with over 12 YOS monthly basic pay rate. The effective date of payment will be at 12 YOS. On 28 May 2021, you still held the rank of Captain/O-3, therefore would have been ineligible to receive CP at the rank of Major/O-4. In this connection, the Board substantially concurred with the comments contained in the aforementioned advisory opinion and determined a change to your record is not warranted.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

