



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

██████████  
Docket No. 3535-24  
Ref: Signature Date

██  
██  
██

Dear ██████████

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 16 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.

The Board carefully considered your request for promotion consideration to the rank of Master Sergeant (MSgt/E-8). The Board considered your contention that you were court-martialed sometime in the 70's and later found not guilty, but that the court-martial was placed in your official record. The Board also considered your claim that a fellow Marine contacted you during the MSgt Selection Board and told you that a selection was not made based upon the aforementioned court-martial.

The Board noted an automated message handling system (AMHS) message, dated 5 November 1976, from the Commanding General, Marine Corps Development and Education Command (MCDEC) to the Commandant of the Marine Corps (MMEA) was resident in your official record recommending that you be allowed to execute permanent change of station orders based upon conclusion of a Special Court Martial (SPCM) that found you not guilty.

The Board determined your request for promotion consideration to the rank of MSgt to be without merit. In this regard, the Board noted, other than your personal statement, you provided insufficient evidence that you should have been promoted to the rank of MSgt. The Board also

noted you were promoted three times after the SPCM occurred, which ultimately found you not guilty according to the letter in your record. Further, the Board noted a Promotion Board is responsible for selecting Marines who are determined by a majority vote to be the “best fitted” amongst their peers for selection. Finally, the Board also noted there is no requirement for those selected to have completely unblemished records. Thus, the Board determined whether the AMHS message mentioning that you were found not guilty at a SPCM hindered your selection to MSgt is conjecture that the Board simply could not validate.

Moreover, 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 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.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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, \_\_\_\_\_

5/21/2024

