



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

██████████
Docket No. 4982-24
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.

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 14 May 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 applications, 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 remove your 4 October 2014 Administrative Remarks (Page 11) counseling entry. The Board considered your claim that it has affected your promotion for the previous three ranks and hindered your career progression. The Board also considered your contention the counseling entry should have been signed by the Commanding Officer (CO) for proper notification, and you should have been promoted on 1 November 2014 to the rank of sergeant. Finally, you assert that at the time of the counseling entry, you could not provide proof of registration and insurance after being checked coming onboard Marine Corps Base (MCB) ██████████, ██████████.

However, the Board noted pursuant to the Marine Corps Individual Records Administration Manual (IRAM), you were properly counseled and determined that the contested entry was written and issued in accordance with the IRAM. The Board noted you were issued the counseling entry not recommending you for promotion to sergeant due to lack of judgement and lack of responsibility for driving on a state suspension, driving with no insurance, and expired

registration while attempting to come aboard [REDACTED] you signed the counseling entry, and you were afforded the opportunity to submit a rebuttal, but chose not to.

In regards to your contention the counseling entry was not signed by the CO, the Board noted pursuant to the IRAM, only certain entries require authentication by the CO and/or signature by the Marine. In this case, promotion restriction counseling entries only require the Marine to sign the counseling entry, a signature from the CO is not required.

Regarding your assertion that the counseling entry has affected your promotion for the previous three ranks, the Board noted pursuant to MCO P1400.32D, the Commandant of the Marine Corps has delegated authority to promote enlisted Marines to the grades of private first class (PFC) through sergeant (Sgt) to Marine commanders. The decision to promote the grades of PFC through Sgt rests solely with commanders and a Marine will not be promoted if, in the opinion of the commander, the Marine is not capable of performing satisfactorily in the higher grade, even though all other requirements have been met. However, the Board does not have the authority to grant backdates of promotion based on speculation. In this regard, the Board determined the issuing officer was well within their discretionary authority to issue the counseling entry and whether or not the counseling entry has hindered your promotability 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. 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.

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,

5/28/2024

[REDACTED]