



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

█  
Docket No. 5997-24  
Ref: Signature Date

█  
█  
█  
  
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 11 June 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 determined that a personal appearance with or without counsel will 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.

The Board carefully considered your request to reinstate your promotion selection to Master Sergeant (E-8/MSgt), remedial promotion to MSgt, and retention at your current duty station until retirement eligible. The Board considered your contention that in lieu of approving early retirement under Temporary Early Retirement Authority (TERA), the Marine Corps offered a quid pro quo transaction to rescind your promotion selection to remain on station. You claim remaining in the local area is imperative to fulfill your responsibilities as a single parent with shared custody of your children.

The Board noted that you requested retirement under TERA due to hardship citing your shared custody agreement, and your request was denied. In an email from the Active Reserve (AR) Enlisted Monitor, he notified you that the court order does not prevent you from moving, you do not qualify for "HUMS," and child custody does not meet the criteria for hardship as prescribed in the TERA guidance. The Board also noted that you requested to remain at your current duty

station and the request was disapproved due to your selection to MSgt on the Fiscal Year 2023 promotion selection board and your pending assignment. The correspondence from the Reserve Affairs Management Branch Head stated that Permanent Change of Station orders (PCSOs) will be issued which serves as the only valid E-8 structure that exists within Financial Management. You were also notified that members who fail to execute PCSOs are subject to re-designation of their service from active duty to another category within the Selected Reserve and the re-designation will occur at the start date of the issued PCSOs. In an email from the AR Enlisted Monitor, he further notified you that AR Marines who refuse to execute PCSOs will "EAS" on the no earlier than date of their PCSO, if you refused orders, you will receive a RE-30, and your "EAS" will be adjusted to 1 June 2023.

The Board noted that you submitted a second request for retirement under TERA, again due hardship citing shared custody. In an email, the AR Enlisted Monitor notified you that your request for early retirement was disapproved because you did not meet eligibility criteria. On 13 June 2023, in an Administrative Remarks (Page 11) entry, you acknowledged that the assignment of "Homestead Status" at your present command precludes you from accepting your selection to MSgt and you waived your selection in return for "Homestead Status" until you are eligible for retirement. You also acknowledged that you are no longer eligible for promotion consideration.

The Board determined that you were properly counseled regarding the Marine Corps Personnel Assignment policy and Marine Corps Separation and Retirement Manual prior to acknowledging the waiver of your promotion to MSgt and accepting Homestead status. The Board determined that your acknowledgement of the Page 11 entry indicates that you understood the basis for the entry and made a fully informed decision to waive your current, and any future, opportunities for promotion to MSgt to remain at your current duty station and to avoid PCSOs.

After careful consideration, the Board substantially concurred that your child custody agreement does not meet eligibility criteria for TERA. According to MARADMIN 630/22, "TERA may be considered for extreme hardship or exceptional need in cases when the Marine demonstrates that a situation exists which is not of a temporary nature, is not susceptible for relief by other means available, and that the situation is of such severity that it will preclude the Marine from reaching a 20-year retirement." The Board acknowledged the challenges associated with shared custody; however, there is no evidence that you have exhausted other means of relief, and the court order does not prevent you from executing PCSOs. The Board thus 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,

7/8/2024

█

Executive Director

Signed by: █