

DEPARTMENT OF THE NAVY

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

> Docket No. 7687-24 Ref: Signature Date

Dear ,

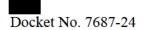
This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found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

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 12 November 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 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 promotion to the rank of Sergeant and be awarded a Silver Star and Purple Heart. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that you did not meet the eligibility criteria to be promoted in accordance with the Marine Corps Promotion Manual of 1964. Specifically, promotion to grade of Sergeant was authorized based on vacancies existing throughout the Marine Corps and affected by Commanders based on composite scores to be computed for each eligible Marine at such time as the Commandant of the Marine Corps directed. The eligibility requirements for promotion to Sergeant included: Complete the minimum service in grade requirements as established by the Commandant of the Marine Corps; pass an appropriate General Military Subjects Test; have a composite score equal to or above the minimum established for his occupational field; and be otherwise qualified as determined by the Marine's Commander.

A review of your record reflects you entered active duty on 19 February 1968. After a period of unauthorized absence, you were found guilty by Special Court-Martial on 26 September 1969 and were awarded confinement with hard labor for a period of 6 months, forfeiture of \$55.00 per month



for 6 months (suspended) and reduced in rank to Private. You were released from confinement on 24 October 1969 and arrived in on 29 December 1969. Your Combat History – Expeditions – Awards Record (NAVMC 118(9)) has an entry on 31 December 1969, of your participation in Operations against the insurgent Communist forces in Thereafter, you were found guilty at non-judicial punishment (NJP) for violation of Article 89 (Disrespect Offenses) and awarded 7 days' pay in the amount of \$31.00 for 1-month. On 12 April 1970, a Naval message was released reporting your evacuation from the Naval Hospital due to Pseudo Psychopathic Schizophrenic. On 14 June 1970, you departed Base and arrived at Base. On 29 October 1970, you were found guilty at NJP for violation of Article 91 (Insubordinate Conduct Toward Warrant Officer, Noncommissioned Officer, or Petty Officer) and awarded forfeiture of \$20 a month for 1-month and restriction/extra duty for 14 days (suspended for 3 months). You advanced to Private First Class on 10 February 1971 and meritoriously promoted to Lance Corporal on 21 June 1971. On 5 January 1972, you were found guilty at NJP for violation of Article 91 (Insubordinate Conduct Toward Warrant Officer, Noncommissioned Officer, or Petty Officer) and awarded forfeiture of \$20 a month for 1-month. On 1 August 1972, you were promoted to Corporal followed by your discharge under honorable conditions on 29 January 1973. The Board could not find, nor did you provided evidence of you meeting the requirements to promote to Sergeant as outlined in the aforementioned policy, therefore determined a change to your rank was not warranted.

By law and regulations, recommendations for any Department of the Navy personal decoration must be originated and introduced into official channels within 3 years of either the date of the heroic act or the ending date of the meritorious service period. In 1996 Congress amended Title 10 U.S.C. §1130 to require the Secretary of the Navy to consider award recommendations made outside these time limits, providing the award was referred to him by a Member of Congress. The law does not require the Secretary to waive any other award processing requirement other than the time limit. To maintain the integrity and fairness of the military awards system, specific procedures have been developed within the Department of the Navy for submission, processing, and approval of award recommendations that are outside the time limits established in law or regulations. Specific guidance for submitting your award can be found in the Secretary of the Navy Manual 1650.1. As you have not exhausted your administrative remedies, the Board has not acted on your awards request in order to allow you an opportunity to first seek relief by submitting your request for the Silver Star and Purple Heart Medal to your member of Congress and Headquarters, U.S. Marine Corps.

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.

