



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

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Docket No. 8258-24  
Ref: Signature Date

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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 27 August 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.

Regarding your request for a personal appearance, 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.

You previously applied to this Board to request to backdate your promotion to lieutenant junior grade (LTJG/O-2), payment of associated back pay and allowances, and adjustment of your position on the Active Duty List (ADL) and Reserve Active Status List (RAS). Your request was denied on 6 July 2023. The facts of your case remain substantially unchanged.

The Board carefully reconsidered your request to backdate your promotion to LTJG/O-2 to 22 May 2022, payment of associated back pay and allowances, and adjustment of your position on the ADL and RASL. The Board considered your contention that the Commanding Officer (CO) made a factual error when delaying your promotion, determining that you failed to display the standards of exemplary conduct, and that you were mentally, physically, morally, or

professionally unqualified to perform duties. You cited the definition for exemplary conduct and claimed the only phrase from the definition that the CO could have been referring to is “to guard against and suppress all dissolute and immoral practices.” You assert that you satisfied all other elements of the definition and engaged in a single, isolated instance of “unduly familiar relations” with a superior officer from a different chain of command; an act that does not amount to dissolute and immoral practices. Therefore, you believe that you otherwise satisfied the standards of exemplary service. You claim the promotion delay caused you to miss the pay increase and allowances associate with promotion, and you received a less favorable position on the ADL and RASL. You assert that your exemplary service during the promotion delay, prior service history, and ongoing improvement after promotion further support the claim that your promotion should have been effective on 22 May 2022.

The Board, however, affirmed the prior Board’s decision that your promotion delay was proper and processed in accordance with SECNAVINST 1412.6M, Promotion of Officers to the Grade of Lieutenant (junior grade) in the Navy and to the grade of First Lieutenant in the Marine Corps. The Board determined that Chief, Navy Personnel Command (CNPC) had the discretionary authority to determine whether you were fully qualified for promotion pursuant to 10 U.S.C. Section 5947 or not. The Board concluded that your disagreement with that decision does not constitute a basis for relief. The Board considered your statement regarding your service during the promotion delay, your prior service history, and opined that CNPC would have considered your post misconduct performance and other matters submitted on your behalf when determining that you were not fully qualified for promotion on your original date of rank. The Board also determined that a single act of substantiated misconduct by a Naval Officer is sufficient to find that you violated the exemplary conduct statute. However, in your case, you were found guilty of violating UCMJ Articles 92, 107, 133, and 134. Moreover, the Board noted there is no requirement that an individual fail to meet every of the aspects of the statute. By holding you accountable, the CNPC upheld all of the aspects of the exemplary conduct statute. Finally, the Board relies on a presumption of regularity to support the official actions of public officers, in the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption and concluded 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.

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.

Sincerely,

9/18/2024

