



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

█  
Docket No. 8803-24  
Ref: Signature Date

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Dear Petitioner:

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 10 September 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 to remove the 16 August 2021 letter notifying you of your revocation of selection to the rank of gunnery sergeant (GySgt) by the Fiscal Year (FY) 2020 GySgt Promotion Selection Board (PSB). The Board considered your contentions that the letter references an Administrative Remarks (Page 11) 6105 counseling entry that is absent from your OMPF. The Board also considered your claim that the letter is in violation of relevant policies.

The Board, however, determined your contentions are without merit. In this regard, the Board noted that you were selected for promotion to the rank of GySgt by the FY 2020 PSB. However, based upon the results of a command investigation concerning your violation of the Prohibited Activities and Conduct Policy, your commanding officer (CO) requesting that your selection to GySgt be revoked. On 21 August 2021, the Commandant of the Marine Corps (CMC) reviewed the recommendation of your chain of command and removed your selection pursuant with para 5200 of the Marine Corps Order governing the policy for Enlisted Promotions.

In regard to your contention that the revocation letter references a counseling entry that is absent from your OMPF, the Board noted the 9 February 2021 6105 entry is present in your record. You were counseled for disobeying MCO 5354.1E (Prohibited Activities and Conduct Prevention and Response Policy) by committing harassment against fellow service members and acknowledged the counseling. Furthermore, the Board noted that you were properly notified of your CO's intent to recommend that your promotion be revoked and afforded the opportunity to make a statement, which you did. Thus, the Board concluded there was sufficient evidence that you were properly counseled and that the revocation of your selection for promotion to GySgt was done pursuant with relevant policies.

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.

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,

9/25/2024

