



**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. 9045-24  
Ref: Signature Date

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Dear █,

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 that the evidence submitted was 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 24 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 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.

The Board carefully considered your request to reinstate [your selection for advancement] by the Fiscal Year 2022 Active Duty Navy Chief Petty Officer Promotion Selection Board (FY 2022 PSB) to E-7, with all backpay and allowances. The Board noted that the Chief of Naval Personnel disapproved your advancement to Chief Petty Officer on 5 October 2019, and that you were subsequently selected for advancement by the Fiscal Year 2025 Active Duty Navy Chief Petty Officer Promotion Selection Board (FY 2025 PSB). You contend that you were “removed/penalized twice prior to this selection for the same cause which falls under the same lines as double jeopardy.” You assert that your selection by the FY 2025 PSB “proves the validity of [your FY 2022] selection, and “provides further evidence to support [your] request for reinstatement.” You previously requested this Board reinstate [your selection for advancement] by the FY22 PSB, and that request was denied<sup>1</sup>.

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<sup>1</sup> Docket No. 8094-22 was considered by the Board on 22 November 2022.

After careful consideration of your application for reconsideration and review of your new evidence, this Board again denied your request. The Board substantially concurred with the previous Board's decision and determined the requested relief is not warranted. The Board noted that in accordance with BUPERS Instruction 1430.16G, the Chief of Naval Personnel is the sole authority for the advancement of personnel to paygrades E-7 through E-9 as well as the sole authority for the removal of enlisted personnel selected for advancement to E-7 through E-9 from a selection board list. The Board found no error or injustice in the Chief of Naval Personnel, acting within his discretionary authority, denying your advancement.

In regard to your claim that your FY 2025 PSB selection supports your request for reinstatement of the FY 2022 PSB selection, the Board determined that your FY 2025 selection to Chief Petty Officer does not change the fact that your advancement was properly removed where the Chief of Naval Personnel found you unqualified for promotion nor does it invalidate the misconduct which ultimately led to his decision.

Further, 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 and substantially concurred with the Chief of Naval Personnel's decision to deny your advancement in October 2019 due to your admitted error in judgement.

In addition, the Board noted you checked "Other Mental Health" in Item 14 of your application, however, other than your statement, the Board noted you did not provide supporting evidence of a nexus between your mental health and failure to advance by the FY 2022 PSB. Therefore, the Board found insufficient evidence this issue or condition was related to your request. 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 the submission of new matters, which will require that you 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,

10/21/2024

