



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

██████████
Docket No. 9828-24
Ref: Signature Date

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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 29 October 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 modify your effective date of rank for Commander (CDR) from 1 August 2024 to 1 September 2023 or that the Board direct Navy Personnel Command (NPC) to convene a Special Selection Board (SSB) for the Fiscal Year 2023 Active Duty Commander Line Promotion Selection Board (FY23 A05L PSB). The Board considered your contentions, through counsel, that you were unfairly denied promotion due to a Board participant's failure to recuse themselves or disclose a conflict of interest, which, you contend is in violation of the Rules of Engagement and Federal Law and constitutes a material error or injustice which deprived you of a fair and impartial promotion review. The Board also considered your claim that a reasonably prudent person would question the impartiality and integrity of your initial Promotion Selection Board, and that impartiality of a Board Member is just as important in a PSB. You assert that because of this, you are entitled to your proper date of rank.

However, upon review and consideration of your personal statement and all of your contentions, the Board substantially concurred with NPC's decision to deny your request for an SSB. In this

regard, the Board noted on 23 January 2024, CDR, NPC notified you that the Secretary of the Navy (SECNAV) reviewed your request and determined the circumstances did not meet required criteria outlined in SECNAVINST 1402.1 to warrant a SSB and disapproved your request. Furthermore, the Board noted you were properly considered and not selected for CDR by the FY23 A05L PSB. The Board noted a review of the FY23 PSB shows the PSB Board was comprised of six unrestricted line officers and three intelligence community line officers. Nominations were provided by the Intelligence Community and the board president was nominated by Flag Matters. Thus, the Board determined that PSB membership requirements were met in accordance with section 612, of Title 10, U.S.C and pursuant with SECNAVINST 1403.1B. Finally, the Board determined pursuant with SECNAVINST 1402.1, a SSB will only be convened by the SECNAV to consider officers who were either eligible but not considered due to administrative error or who were considered in an unfair manner and not selected. The Board determined you provided insufficient evidence to support your claims and determined that NPC's decision was consistent with relevant policies. The Board thus determined that a backdate of your effective date of promotion for CDR or an SSB are not warranted. Thus, 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.

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,

11/21/2024

