



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. 10566-24
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 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 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 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 reinstating your promotion selection to the rank of gunnery sergeant (GySgt) by the Fiscal Year (FY) 2022 GySgt Promotion Selection Board (PSB). The Board considered your contention that Marine Corps Orders were not followed, and that higher headquarters lost documentation and attempted to have you resign the documents with incorrect dates.

The Board, however determined your contentions are without merit. In this regard, the Board noted on 23 June 2022 you were selected for promotion to the rank of GySgt by the FY 2022 PSB. The Board noted on 29 March 2023 you received a counseling entry notifying you that your commanding officer (CO) was recommending your promotion to GySgt be delayed for a period of six months and that you understood the Commandant of the Marine Corps (CMC) may act to deliver, delay, or revoke your appointment. The Board noted pursuant to the Marine Corps Individual Records Administration Manual (IRAM), you were properly counseled and determined that the contested counseling entry was written and issued in accordance with the IRAM. The Board also noted that

you signed the counseling entry and were afforded the opportunity to submit a statement, which you did on 3 April 2023. Moreover, the Board noted in your statement you assert that you were advised in June of 2022 by the Sergeant Major that your selection to GySgt was delayed.

The Board noted, on 26 September 2023 the CMC officially delayed your promotion until all legal proceedings are adjudicated. On 21 January 2024 your CO imposed nonjudicial Punishment (NJP) for violation of Article 92, fraternization under the Uniform Code of Military Justice for wrongfully engaging in an unduly familiar relationship that did not respect the differences in grade or rank with a lance corporal, and that such conduct was prejudicial to good order and discipline. As a result, you were also subject to an adverse fitness report and counseling entry pursuant with relevant policies. On 5 June 2024, the CMC revoked your promotion based upon your NJP. On 24 January 2024 you provided a statement concerning the CMC's decision to revoke your promotion selection to GySgt.

The Board noted although a counseling entry was not issued until March of 2023, its delay does not invalidate the CMC's decision to revoke your promotion selection. Furthermore, the Board noted based upon your own admittance in your rebuttal statement, you were properly notified of your CO's intent to recommend to the CMC that your promotion be delayed. The Board determined you were properly notified of your CO's decision to recommend that your promotion be delayed and that you were afforded numerous opportunities to provide a response concerning your CO's recommendation as well as to the CMC's final decision to revoke your promotion. Thus, the Board determined that other than your claims, there was sufficient evidence and determined you were properly counseled. The Board further determined 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,

11/20/2024

