



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

Docket No. 12438-24
Ref: Signature Date

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 11 March 2025. 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.

In April 2021, [REDACTED] reported to [REDACTED] that he observed you masturbating while sitting in your car parked in the [REDACTED] on 7 April 2021. On 11 August 2021, the Fiscal Year (FY) 2022 [REDACTED] Promotion Selection Board (PSB) selected you for promotion with a projected 1 October 2022 promotion date. However, you were charged on 9 November 2021 with violating Article 120(c) (Indecent Exposure), Article 131(b) (Obstructing Justice) and Article 133 (Conduct Unbecoming an Officer and Gentleman) of the Uniform Code of Military Justice (UCMJ) and referred to General Court Martial.

On 17 January 2022, you were notified by that your promotion was being withheld pending review of adverse information. Pursuant to a pretrial agreement, you accepted nonjudicial

punishment (NJP) and pleaded guilty to violating Article 133, UCMJ. You contended you were not engaged in a sexual act and inspecting your groin area for chafing after a physical therapy session. ██████████ issued you a punitive letter of reprimand and forfeitures of one half months pay for two months (one month suspended) as punishment. On 23 February 2022, ██████████ submitted a Report of NJP recommending you to show cause at a board of inquiry (BOI).

In May 2022, a BOI found the preponderance of the evidence did not substantiate the reasons for separation. Subsequently, on 18 August 2022, Deputy Commandant for Manpower and Reserve Affairs terminated administrative proceedings and directed adverse material be included in your OMPF. You were then notified, on 13 April 2023, that the Secretary of the Navy (SECNAV) removed your name from the FY22 USMC CWO3 Promotion Selection List on 6 April 2023.

The FY24 CWO3 PSB selected you for promotion with a projected date of rank of 1 July 2024. Although your battalion commander recommended promotion, ██████████ and the Commandant of the Marine Corps recommended your name be removed from the promotion list. On 17 September 2024, SECNAV recommended your promotion, and on 28 October 2024, the Principal Deputy Assistant Secretary of the Navy (Manpower and Reserve Affairs) recommended to the Secretary of Defense (SECDEF) your promotion to CWO3 with an original date of rank of 1 July 2024.

The Board carefully considered your request to change your date of rank (DOR) to 1 October 2022. You contend you merit this DOR in accordance with Secretary of the Navy Instruction (SECNAVINST) 1412.22, reference (b), which states that if an officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, SECNAV may grant the officer the same date of rank, the same effective date for pay and allowances for the grade to which promoted and the same position on the active duty list as the officer would have had if the officer's name had not been removed from the first promotion list.

Upon review and consideration of all the evidence of record, the Board noted SECNAVINST 1412.22 cited is discretionary since it states SECNAV may, not must, grant the Petitioner the original date of rank. Moreover, the Board found no new evidence regarding the incident and concluded SECNAV had all applicable evidence and matters when considering your promotion date of rank and chose not to backdate your date of rank. In fact, the PDASN M&RA memorandum to SECDEF states that you would be promoted with an original date of rank of 1 July 2024. Consequently, the Board concluded there was no error or injustice regarding your date of rank. 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,

4/9/2025

