



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. 394-25
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 23 July 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 also considered the ██████████ advisory opinion (AO) furnished by the Navy Office of Legal Counsel (BUPERS-00J). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request for promotion to O-5 effective 1 October 2023. The Board considered your contention that a premature hold on your record, resulting from an unsubstantiated Navy Equal Opportunity and Harassment Complaint (CMEO) during November 2022, negatively impacted two promotion boards and one continuation board, and led to your forced retirement on 31 October 2024. If not for the flag on your record, you assert that you would have been selected for promotion to Commander. You claim the appellate authority determined the complaint was unfounded on 15 November 2024.

In its review of your request and all available evidence, the Board determined that no relief is warranted. In reaching its decision, the Board observed that it is not an investigative body and relies on a presumption of regularity to support the official actions of public officers. In the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties.

In this regard, the Board noted that the Fiscal Year (FY) 2023 Active-Duty Navy Staff Corps Commander Promotion Selection Board (PSB) convened on 2 May 2022, and you failed selection. On 21 November 2022, a formal CMEC complaint was filed against you alleging harassment and bullying. On 2 March 2023, your command investigated the complaint and substantiated the allegations against you. On 1 May 2023, the FY 2024 Active-Duty Navy Staff Corps Commander PSB convened and you failed selection; constituting your second failure of selection. On 10 August 2023, the FY 2024 Continuation Selection Board selected you for continuation until you reached 24 years of active service, 24 October 2024. On 1 November 2024, you retired from active service. On 15 November 2024, the Chief, Bureau of Medicine and Surgery concurred with the finding of the investigating officer that the complaint of discrimination based on race and sex was unsubstantiated.

Concerning the impact of the CMEC complaint on your failures of selection, the Board noted that the complaint was filed six months after you failed selection during the FY 2023 PSB. Accordingly, the Board determined that the complaint was not a factor during the FY 2023 PSB. In accordance with MILPERSMAN 1070-020, adverse material does not appear in the official record until misconduct is adjudicated and the member is afforded an opportunity to submit a written statement. The Board found no evidence that any adverse material or evidence of the complaint in your official record or available for consideration during the FY 2024 PSB. The Board further determined that your claim regarding a flag on your record lacks merit and is not supported by evidence.

Concerning your retirement, pursuant to 10 U.S.C. section 632, an officer in the grade of lieutenant or lieutenant commander, who has failed selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if eligible for retirement under any provision of law, be retired not later than the first day of the seventh calendar month, beginning after the month in which the Secretary concerned releases the promotion results of the board, that did not select the officer for the second time, to the public. However, pursuant to 10 U.S.C. section 637, you were eligible and selected for continuation on active duty until the last day of the month in which you completed 24 years of active service. At the end of your 24 years of service, you were properly retired effective 1 November 2024.

Based on the foregoing determinations, the Board determined there was no error that forced you to retire. The Board also determined that promotion to O-5 is not warranted based on the lack of evidence that an error or injustice in your case. Moreover, this Board does not have the authority to show that an officer has been appointed to a certain grade when the officer has not been appointed to that grade by the President or the Secretary of Defense. In conclusion, the Board found the evidence you provided insufficient to overcome the presumption of regularity. The Board thus concluded 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,

8/7/2025

