



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 8227-98
27 May 1999

GYSGT [REDACTED] USMC
[REDACTED]

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 May 1999. 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, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by Headquarters Marine Corps, dated 12 April 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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 and material evidence or other matter not previously 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,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1400/3
MMPR-2
12 Apr 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF GUNNERY SERGEANT [REDACTED]
[REDACTED] USMC

1. Gunnery Sergeant [REDACTED] requests for his current date of rank be backdated to reflect selection by the 1994 Gunnery Sergeant Selection Board. He feels had he not been placed on the Temporary Disability Retirement List and remained on active duty, he would have been promoted to the rank of gunnery sergeant with his peers.

2. Gunnery Sergeant [REDACTED] returned to active duty after being on the Temporary Disability Retired List (TDRL). Records indicate that he received remedial consideration for promotion by the 1994, 1995, 1996, and 1997 Regular Gunnery Sergeant Selection Boards. The first time he was eligible for consideration (by date of rank) was for the 1995 Gunnery Sergeant Promotion Board. However, due to his being recommended for an accelerated promotion to gunnery sergeant, he was also considered in the Below Zone for promotion consideration by the 1994 Gunnery Sergeant Selection Board and failed selection. The board recommended he receive remedial promotion by the 1995 Gunnery Sergeant Selection Board. He was given a date of rank of 1 November 1995 with an effective date (effective for pay purposes) of 16 October 1998. He has received all back pay and allowances he is entitled to receive. He is not entitled to any increased pay for the time he was on the Temporary Disability Retired List. No further action is required by this Headquarters.

[REDACTED]

Assistant Head, Enlisted Promotions
Promotion Branch
By direction of
the Commandant of the Marine Corps