



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

BJG  
Docket No: 3119-01  
8 November 2001

SSGT [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear S [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.

You requested that the service record page 11 counseling entry dated 14 July 2000 be removed, that your removal from the Calendar Year 2000 Gunnery Sergeant Selection Board selection list be set aside, and that you be promoted to gunnery sergeant effective 1 July 2000.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 November 2001. 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 opinions furnished by Headquarters Marine Corps dated 21 May and 21 September 2001, copies of which are attached. They also considered your rebuttal letter dated 6 July 2001.

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.

Since you ultimately did not receive nonjudicial punishment or a punitive letter of reprimand, and your removal from the selection list was not based on the initial request to revoke your selection for promotion, they concluded that any technical errors in these matters were harmless. Likewise, they found it was to your advantage that you were permitted to reenlist, and that action was not taken to prevent your selection for promotion. The e-mail dated 31 May 2000 at enclosure (9) to your application, granting a one-day "grace period" for removal of unauthorized material from your command's computer systems, did not persuade

them that the contested page 11 entry for conduct on or about 5 May 2000, or your removal from the selection list on the basis of that entry was improper, nor did they find persuasive your unsupported assertion that your command originally indicated they would take no action against you other than issuing you a nonpunitive letter of reprimand. They did not feel the administrative actions ultimately taken against you were unduly harsh. They did not find it objectionable that the page 11 entry at issue cited a violation of a different authority from that reflected in the punitive reprimand which was dismissed. They did not find it a material error that the final request of 13 July 2000 to revoke your selection, enclosure (12) to your application, was dated the day before the page 11 entry on which it was based; nor did they find it a material error that this request stated you received the page 11 entry the day before the date of the entry. Finally, concerning your assertion that you have not received a copy of the 15th Marine Expeditionary Unit commander's endorsement to the request, they noted you exercised your opportunity to rebut the request itself; and they were unable to find this endorsement added new unfavorable information.

In view of the above, 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

Enclosures



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
MANPOWER AND RESERVE AFFAIRS DEPARTMENT  
HARRY LEE HALL, 17 LEJEUNE ROAD  
QUANTICO, VIRGINIA 22134-5104

IN REPLY REFER TO:  
1400/3  
MMPR-2  
21 May 01

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

Subj: ADVISORY OPINION IN THE CASE OF STAFF SERGEANT [REDACTED]  
S [REDACTED] SMC

Ref: (a) CO, BLT 4, 15 MEU (SOC) ltr 5800 S-1 of 13 Jul 00  
(b) CO, 15th MEU, I MEF ltr 5800 SJA of 19 Jul 00  
(c) CG I MEF 5800 SJA3 of 14 Aug 00  
(d) CMC ltr 1450/5 MMPR-2 of 22 Aug 00  
(e) MCO P1400.32C

1. Staff Sergeant [REDACTED] requests reinstatement of his selection to gunnery sergeant by the CY 2000 Gunnery Sergeant Selection Board in which he was selected for promotion from the Above Zone (AZ).
2. On July 13 2000, Staff Sergeant [REDACTED] chain of command initiated the proceedings to recommend the revocation of his selection to gunnery sergeant by the CY 2000 Gunnery Sergeant Selection Board due to his illegal viewing of pornographic sites on the internet with a government computer (ref (a) and (b)). On 14 August 2000, the Commanding General, I Marine Expeditionary Force (MEF), concurred with the recommendation for revocation (ref (c)). The Commandant of the Marine Corps (CMC) administratively deleted Staff Sergeant [REDACTED] name from the CY 2000 Gunnery Sergeant Selection List after his failure to maintain the high standards of personal and professional performance expected of a Staff Noncommissioned Officer (ref (d)).
3. Since Staff Sergeant [REDACTED] records have not changed and his selection was properly revoked in accordance with Ref (e) he is not eligible for the reinstatement of his selection to gunnery sergeant. We recommend the petition be denied.

[REDACTED]

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



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

3119-01  
IN REPLY REFER TO:  
1070  
MIFD  
SEP 21 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED]  
[REDACTED] USMC

1. Staff Sergeant [REDACTED] application with supporting documents has been reviewed concerning his request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 000714 and CMC letter 1450/5 MMPR-2 dated 22 Aug 2000, revocation of selection from the 2000 Gunnery Sergeant Selection Board, from his service records.

2. MCO P1070.12J, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book (SRB), medical records, or the Marine's automated record.

3. MCO 1610.12, the U.S. Marine Corps Counseling Program states that:

a. "Counseling is that part of leadership which ensures, by mutual understanding, that the efforts of leaders and their Marines are continuously directed toward increased unit readiness and effective individual performance.

b. Increase individual performance and productivity through counseling and thereby increases unit readiness and effectiveness.

c. Counseling enhances the leader's ability to improve the junior's performance."

4. One of the many leadership tools that a commander has at their disposal is counseling and rehabilitation for their Marines. Marine Corps policy is that reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings and that the commander is authorized to document those efforts by a page 11 counseling entry per the IRAM. The Marine Corps Separation Manual, paragraph 6105, sets forth policy pertaining to counseling and rehabilitation. In cases involving unsatisfactory performance, pattern of misconduct, or other bases requiring counseling under paragraph 6105, separation processing may not be initiated until the Marine is counseled concerning deficiencies, and afforded a reasonable opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records.

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED] USMC

5. The following comments/opinions concerning the page 11 entry are provided:

a. The counseling entry does meet the elements of a proper page 11 counseling in that it lists deficiencies, recommendations for corrective action, available assistance, and states that Staff Sergeant [REDACTED] was provided the opportunity to make a rebuttal statement. Additionally, the entry affords him an opportunity to annotate whether or not he chose to make such a statement and if made, a copy of the statement would be filed in the Service Record Book (SRB).

b. Staff Sergeant [REDACTED] acknowledged the counseling entry by his signature and indicated his desire "to" make a statement in rebuttal.

c. Since Staff Sergeant [REDACTED] does not provide a copy of the rebuttal in his application nor is it on file in his official military personnel file (OMPF), it is not known if Staff Sergeant [REDACTED] contests, explains, or refutes the contents of the page 11 entry.

d. Staff Sergeant [REDACTED] claim that the page 11 entry is in error or unjust is not supported by the IRAM.

6. The following comments/opinions concerning the CMC letter 1450/5 MMPR-2 dated 22 Aug 2000 are provided:

a. Certain limitations exist regarding the kinds of material authorized for inclusion in the OMPF. The letter is a document that reflects unfavorably upon Staff Sergeant [REDACTED] personal and professional qualifications.

b. The letter qualifies as correspondence of a military nature per paragraph 1000.4c(2) of the IRAM.

c. Staff Sergeant [REDACTED] has had the opportunity to contest, explain, or rebut his commander's request to revoke his selection to Gunnery Sergeant (enclosure (13) contained in his application) per paragraph 1000.4c(2) (a) of the IRAM. The CMC letter was the response to his commander and properly placed in his OMPF without additional referral to Staff Sergeant [REDACTED] per paragraph 1000.4c(2) (a) of the IRAM.

d. The letter is an authorized document for inclusion in Staff Sergeant [REDACTED] OMPF per paragraph 1000.4 of the IRAM.

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED]  
[REDACTED] USMC

7. In view of the above, it is recommended that:

a. The Board for Correction of Naval Records disapprove Staff Sergeant [REDACTED] request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 000714 and CMC letter 1450/5 MMPR-2 dated 22 Aug 2000, revocation of selection from the 2000 Gunnery Sergeant Selection Board, from his service records.

b. If the Board for Correction of Naval Records finds that Staff Sergeant [REDACTED] records are in error or an injustice was committed, remove the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 000714 CMC letter 1450/5 MMPR-2 dated 22 Aug 2000, revocation of selection from the 2000 Gunnery Sergeant Selection Board, from his service records.

8. Point of contact is [REDACTED] at [REDACTED]

[REDACTED]

Director  
Manpower Management Information  
Systems Division