



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

BJG
Docket No: 3855-08
26 September 2008

[REDACTED]

[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, in effect, amendment of the Family Advocacy Program level III determination in your case to "unsubstantiated/unresolved or did not occur"; removal of the service record page 11 ("Administrative Remarks (1070)") entry dated 25 July 2005, the Commandant of the Marine Corps letter dated 12 August 2005 (Subject: Revocation of Selection from the Fiscal Year 2005 Sergeant Major through Master Sergeant Selection Board) and the fitness report for 17 December 2004 to 19 July 2005; and promotion to master gunnery sergeant (pay grade E-9) effective 1 March 2005.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 September 2008. 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 report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) dated 24 April 2007, and the

advisory opinions from HQMC dated 17 September 2007 with enclosure and 11 January and 20 February 2008, copies of which are attached. The Board also considered your rebuttal letters dated 30 November 2006 and 16 May and 14 November 2007, each with enclosures, and the Commanding Officer, Headquarters and Service Company letter dated 7 November 2006.

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 report of the PERB and the advisory opinions.

The Board was unable to find the Case Review Committee did not follow correct procedures or failed to consider all relevant information. The Board noted the contested promotion revocation cited not only paragraph 1204 of Marine Corps Order (MCO) P1400.32C, but also paragraph 5200, which establishes a staff noncommissioned officer's promotion may be delayed or revoked whenever it is determined the individual is unqualified for promotion. The Board further observed you acknowledge you had a chance to make a statement before your promotion was revoked, although you object you did not have that chance until almost 60 days after the originally projected promotion date. The Board found no requirement for a page 11 entry, regarding your promotion revocation, in MCO P1400.32C, the applicable version of the Enlisted Promotions Manual (this requirement appears in paragraph 1204.5 of MCO P1400.32D, dated 11 May 2006).

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