



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

JSR

JSR
Docket No. 09296-08
11 June 2009

[REDACTED]

[REDACTED]

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

You expressly requested adjusting your master sergeant (pay grade E-8) date of rank and effective date to reflect selection by the Fiscal Year (FY) 2006 Master Sergeant Selection Board, rather than the enlisted remedial selection board for the FY 2008 Master Sergeant Selection Board. You also impliedly requested reconsideration of your previous request to adjust your gunnery sergeant (pay grade E-7) date of rank and effective date to reflect selection by the Calendar Year (CY) 2001 or 2002 Gunnery Sergeant Selection Board, rather than CY 2003. In your previous case, docket number 5997-07, this request was denied on 6 March 2008.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 11 June 2009. 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, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion from Headquarters Marine Corps dated 13 February 2009, a copy of which is attached, and your letter dated 10 June 2009.

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.

The Board still was unable to find your selection by the CY 2001 or 2002 Gunnery Sergeant Selection Boards would have been probable, had your record not included the weight control entry for 9 August 1993 to 31 August 1995 the Board directed removing in your prior case, again noting that a more recent contested weight control entry for 31 December 1999 to 28 February 2000 would have been in your record in any event. The Board further noted that the CY 2003 Gunnery Sergeant Selection Board selected you with an uncorrected record. While the Board did consider your having been selected for promotion to master sergeant the first time you were considered with a corrected record to be new and material evidence in support of backdating your promotion to gunnery sergeant, such that reconsideration was warranted, this new evidence did not persuade the Board that a corrected record would have made it probable that you would have been selected earlier for gunnery sergeant. Consequently, the Board again voted to deny relief regarding backdating of your promotion to gunnery sergeant.

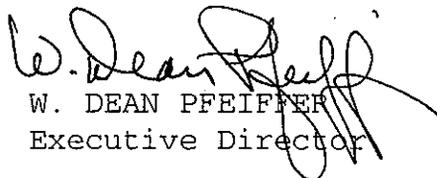
Since the Board denied your implied request to backdate your promotion to gunnery sergeant, it had no grounds to backdate your promotion to master sergeant.

In view of the above, the Board voted to deny both your express and implied requests. 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