



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6187-99

12 September 2000

SSGT [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Staff [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 your staff sergeant date of rank be changed from 18 February 1998 to 1 December 1980, that you be granted remedial consideration for promotion to gunnery sergeant from 1990, and that your fitness report for 1 February to 15 March 1984 be removed. In your prior case, docket number 9984-86, the recommendation of the Board for Correction of Naval Records on 13 August 1987 to deny your original request to remove your fitness report for 1 February to 15 March 1984 was approved by the Assistant Secretary of the Navy (Manpower and Reserve Affairs) on 15 September 1989. As you have provided no new and material evidence or other matter supporting this request, the Board did not reconsider it.

A three-member panel of the Board, sitting in executive session, considered the remainder application on 30 August 2000. 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 17 and 31 March 2000, copies of which are 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 opinions. The supporting statements you provided did not persuade them that you would have been reenlisted within three years after your prior enlistment on 14 July 1994, and would have received the earlier staff sergeant date of rank, but for undue administrative delay in processing your reenlistment request. In this regard, they noted the

undated statement from the sergeant major states that it was 1996 when you advised him you were planning to reenlist. 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

6187-99

IN REPLY REFER TO:
1400/3
MMPR-2
17 Mar 00

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

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

Ref: (a) BCNR Memo of 1 March 2000
(b) OIC ltr 1160 RAM-5 of 5 Jan 98

1. In reference (a), we were asked to provide an advisory opinion on Staff Sergeant [REDACTED] request to have his promotion to staff sergeant backdated to his original date of rank as 1 December 1980 and he further requested remedial consideration for promotion to gunnery sergeant.
2. According to reference (b), the Reserve Affairs Management Branch (RAM-5) reenlisted Staff Sergeant [REDACTED] back into the Marine Corps Reserve at the rank of staff sergeant with his enlistment date (980218) as his date of rank. The CMC (MMPR-2) has no authority to backdate a date of rank that was affected by a reenlistment back into the Marine Corps.
3. Recommend Staff Sergeant [REDACTED] request be denied.

[REDACTED]

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

6187-99



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

IN REPLY REFER TO:
1040
CMT
31 Mar 2000

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

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

Ref: (a) BCNR Docket #6187-99
(b) MCO P1040R.35B

1. In response to reference (a), the following information is provided. Reference (b) provides guidance on assigning a date of rank to a Marine who is requesting an off-contract waiver. Specifically, if a Marine is "enlisting 3 years or more after separation from the Marine Corps/MCR, the applicant will be reappointed to the grade held at time of separation with date of rank as date of enlistment." Staff Sergeant [REDACTED] fell off contract on 14 July 1994 from the Individual Ready Reserve (IRR) and did not reenlist into the IRR until 18 February 1998. Staff Sergeant [REDACTED] request to rejoin the Marine Corps Reserve, unfortunately, was not submitted in time to prevent his present date of rank from being his date of reenlistment.

2. The point of contact for this matter is Master Sergeant [REDACTED]
[REDACTED]

[REDACTED]
By direction