



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

LCC:ddj
Docket No: 7392-98
13 June 2000



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 13 June 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 opinion furnished by CMC memorandum 1400/3 MMPR-2 of 17 May 2000, 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
MANPOWER AND RESERVE AFFAIRS DEPARTMENT
HARRY LEE HALL, 17 LEJEUNE ROAD
QUANTICO, VIRGINIA 22134-5104

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

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

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

Ref: (a) BCNR Memo of 18 Apr 2000
(b) OIC ltr 1160 RAM-5 of 5 Mar 98
(c) MCO P1040R.35B (Reserve Career Retention Planning
Manual, paragraph 5104.2)

1. In reference (a), we were asked to provide an advisory opinion on Sergeant [REDACTED] request to have his sergeant date of rank adjusted to reflect a date of rank prior to 30 April 1998. He believes that, since he previously served in the active duty Marine Corps as a sergeant for three years, with a date of rank of 1 May 1989, when he reenlisted into the Marine Corps Reserve, he should have been given a date of rank that reflected promotion in 1993 or 1994.

2. Per reference (b), and in accordance with the provisions of reference (c), the Reserve Affairs Management Branch (RAM-5) authorized the reenlistment of Sergeant [REDACTED] into the Marine Corps Reserve at the grade of sergeant with his enlistment date, 30 April 1998, as his date of rank. The CMC (MMPR-2) has no authority to backdate a date of rank that was effected by a reenlistment back into the Marine Corps Reserve.

3. We recommend Sergeant Ramirez's request be denied.

[REDACTED]
[REDACTED]
Head, Enlisted Promotion Section
Promotion Branch
By direction of
The Commandant of the Marine Corps