



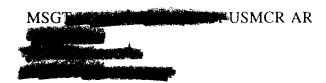
#### DEPARTMENT OF THE NAVY

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

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BJG

Docket No: 8296-01 7 November 2002



Dear Master Serge

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.

The attached memorandum for the record dated 4 November 2002 shows that appropriate corrective action has been taken by the Commandant of the Marine Corps (CMC) regarding the contested Marine Corps Total Force System (MCTFS) entry of 18 February 1993, reflecting that you had a "GCM" (general court-martial) on 14 September 1990.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 November 2002. 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 25 March and 15 April 2002, copies of which are attached. They also considered your rebuttal letter dated 15 May 2002.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice warranting adjustment of your master sergeant to reflect selection by the Calendar Year (CY) 1999 Active Reserve Master Sergeant Selection Board, vice the CY 2001 promotion board, or remedial consideration for promotion from the CY 1999 promotion board. In this regard, they particularly noted that your official record included no documentation of a GCM. They concluded that any promotion board would have recognized that you actually had no GCM. This is supported by your having been selected by the CY 2001 promotion board, which considered you before the MCTFS had been corrected. In view of the above, your request for relief beyond that effected by CMC 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** 

8296-01

## DEPARTMENT OF THE NAVY BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR) PERFORMANCE SECTION 2 NAVY ANNEX SHITE 2432

2 NAVY ANNEX, SUITE 2432 WASHINGTON, DC 20370-5100

TELEPHONE: (703) 614-2293 OR DSN 224-2293 FACSIMILE: (703) 614-9857 OR DSN 224-9857

#### MEMORANDUM FOR THE RECORD

DATE: 4NOV02

DOCKET NO

PETITIONER (PET): MSGT USMCR (AR)

PARTY CALLED: MC MIFD

TELEPHONE #:

WHAT I SAID: I ASKED HE COULD ADMIN REMOVE PET'S "GCM" ENTRY IN MCTFS, MAKING IT A "GC" ENTRY.

WHAT PARTY SAID: SWERED IN THE AFFIRMATIVE.

BRIAN J. GEORGE





### DEPARTMENT OF THE NAVY HEADQUARTERS UNITED STATES MARINE CORPS 2 NAVY ANNEX WASHINGTON, DC 20380-1775

IN REPLY REFER TO: 1070

JAM2A

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Subj: BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR) APPLICATION IN THE CASE OF GUNNERY SERGEANT USMCR(AR)

- 1. We are asked to provide an opinion on Petitioner's request to remove from the Marine Corps Total Force System (MCTFS) the 18 February 1993, Legal Action 119 Remarks page entry for general court-martial.
- 2. We recommend that Petitioner's request for relief be granted. Our analysis follows.
- 3. <u>Background</u>. On 18 February 1993, the MCTFS code "GCM" was entered in the MCTFS indicating that Petitioner was the subject of a general court-martial.

#### 4. Analysis

- a. Petitioner's fitness reports, service record book, and MCTFS record do not offer any evidence that she had ever been convicted by court-martial, except for the "GCM" MCTFS code. The Administrative Support Division, U.S. Navy-Marine Corps Appellate Review Activity, has no record that Petitioner was convicted by court-martial. Additionally, evidence supporting Petitioner's application comes from a letter to the Board by Chief Warrant Officer 3

  Chief Warrant Officer 3
- b. Petitioner was awarded her second and third Good Conduct Medal for the periods 14 September 1987 to 13 September 1990, and 14 September 1990 to 13 September 1993, respectively. It appears that the "GCM" entry was intended to reflect a Good Conduct Medal, commonly referred to by it's acronym, GCM. However, the MCTFS code for the Good Conduct Medal is "GC." Furthermore, CWO3 letter states that the "GCM" entry was intended to reflect an entry for a Good Conduct Medal. CWO3 statement is supported by the effective date of the "GCM" MCTFS entry, 14 September 1990, which coincides with the commencement date for her third Good Conduct Medal. Based on

Subj: BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR) APPLICATION IN THE CASE OF CUNNERY SERGEANT USMC (AR)

this information, we conclude that the MCTFS "GCM" entry was made in error and should be removed.

5. <u>Conclusion</u>. Accordingly, we recommend that the requested relief be granted.



Head, Military Law Branch Judge Advocate Division

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

1400/3 MMPR-2
15 Apr 02

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

Subj: ADVISORY OPINION IN THE CASE OF GUNNERY SERGEANT

USMCR (AR)

Ref:

- (a) DD Form 149 of 15 NOV 01
- (b) BCNR ltr CRS Docket No: 08296-01 dtd 15 NOV 01
- (c) MCO P1400.32C (Enlisted Promotion Manual)

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- 1. Cunnery Sergeant equests to have her master sergeant rank back dated for the CY 1999 Reserve Staff Noncommissioned Officer Selection Board. Cunnery Sergea was selected for master sergeant on the CY 2001 Reserve Staff Noncommissioned Officer Selection Board.
- 2. On 18 February 1993, the MCTFS code "GCM" was entered in the MCTFS indicating that Gunnery Sergean as the subject of a general court-martial. In letter 1070 JAMZA dated 25 March 2002, the Judge Advocate Division concluded that the entry was made in error and should be removed. Gunnery Sergeant was never convicted of a court-martial. The "GCM" entry was intended to reflect a Good Conduct Medal, commonly referred to by its acronym, GCM. However, the MCTFS code for a Good Conduct Medal is "GC." Gunnery Sergeant the last this error adversely affected her selection to master sergeant by the CY 1999 Reserve Staff Noncommissioned Officer Selection Board.
- 3. Per reference C, inaccurate information contained in MCTFS, or failure to demonstrate due diligence in correcting errors, injustices in the record, or in the submission of a request for remedial promotion consideration, will not normally constitute a basis for granting remedial consideration for promotion.
- 4. Due diligence requires that a Marine identify errors, discrepancies or an injustice in his or her record in a timely manner and initiate appropriate corrective action.

  Accordingly, a Marine's request for remedial consideration must detail the steps taken to ensure the completeness and accuracy

Subj: ADVISORY OPINION IN THE CASE OF GUNNERY SERGEANT

USMCR (AL)

of his or her official records prior to the convening of the selection board which considered but did not select the Marine.

- 5. The error in MCTFS was entered in 1993. The selection board in question was held in 1999. Gunnery Sergean did not initiate her request for correction of the error until 7 November 2001. Due diligence would apply in this case.
- 6. Furthermore, Gunnery Sergean was promoted to gunnery sergeant by the CY 2001 Reserve Staff Noncommissioned Officer Selection Board with the GCM marking in the MCTFS. Because this information did not stop her from being selected to gunnery sergeant, it is recommended that BCNR not consider back dating the promotion of Gunnery Sergeant.

Major, U.S. Marine Corps Head, Enlisted Promotion Section