



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

██████████
Docket No. 2859-24
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF ██████████
██████████ USMC

Ref: (a) 10 U.S.C. § 1552
(b) MARADMIN 496/20, FY20 Approved Selections to GySgt
(c) MARADMIN 301/21, FY21 Approved Selections to GySgt
(d) MARADMIN 321/22, FY22 Approved Selections to GySgt
(e) MCO P1400.32D w/Ch 2

Encl: (1) DD Form 149 w/enclosures
(2) NAVMC 118(11) Administrative Remarks (page 11) counseling entry of 28 Aug 19
(3) DD Form 149 of 18 Mar 23
(4) BCNR ltr ██████████ Docket No. 2528-23 of 3 May 23
(5) MMPB-11 emails of 8 Feb 24 and 29 Oct 23
(6) CMC ltr 1420/4 MMPB-11 (undated)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting remedial promotion consideration for the rank of Gunnery Sergeant (GySgt) by an Enlisted Remedial Selection Board (ERSB) for Fiscal Years (FY) 2020 through FY 2022.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 9 April 2024, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. On 28 August 2019, Petitioner received an Administrative Remarks (6105) counseling entry for failure of a physical fitness test (PFT). Petitioner signed the counseling entry and indicated that he did not wish to submit a rebuttal statement. Enclosure (2).

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c. The FY 20 through FY 22 GySgt Promotion Selection Boards (PSB) respectively adjourned. Pursuant to references (b) through (d), Petitioner was not selected.

d. Subsequently, Petitioner submitted a request to the Board for the removal of his counseling entry and, on 11 April 2023, a previous Board granted his request for removal. See Enclosures (3) and (4).

e. On 29 October 2023, Petitioner submitted a request for FY 20 through FY 23 remedial consideration to GySgt to Enlisted Promotions (MMPB-11) based upon the previous Board's decision to remove his counseling entry. MMPB-1 granted his request for FY 23 but denied his request for FY 20 through FY 22 pursuant to para 3602.3 of reference (e), stating that due diligence requires a Marine to identify errors, discrepancies, or an injustice in their record in a timely manner and [to] initiate appropriate corrective action prior to the convene date of the board being contested. Enclosures (5) and (6).

f. Petitioner contends that it took him time to build his previous request to the Board and that the counseling entry has adversely affected his promotion chances during FY 20 through FY 23.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded the Petitioner's request warrants favorable action. Specifically, the Board noted that, although requests for ERSB's must be received no later than three years after the date the contested board results are made public, an exception to policy was appropriate in Petitioner's case based upon the favorable action taken by a previous Board in the removal his counseling entry which was previously available to the aforementioned PSBs. Thus, the Board noted the material error in his record may have negatively influenced the PSBs perception of his performance and determined the injustice outweighs Petitioner's lack of due diligence.

RECOMMENDATION

In view of the above, the Board recommends the following corrective action.

Petitioner be considered by the FY 20 through FY 22 GySgt ERSBs, and if selected, his date of rank and effective date in the grade of GySgt/E-7 shall be adjusted to the date he would have received had he originally been selected by the respective PSB.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

4/16/2024

