



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

BJG
Docket No: 4427-00
2 August 2001

CPI [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Corporal [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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 August 2001. 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 11 and 21 May 2001, 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. 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

Enclosures



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

IN REPLY REFER TO:
1070
MIFD ...
11 MAY 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF CORPORAL [REDACTED] SMC

1. We reviewed Corporal [REDACTED] application concerning his request to correct his assigned conduct and duty proficiency marks in his service records and the removal of an Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 971208 and rebuttal statement from his service records.

2. Paragraph 4007.6 and 4007.7 of MCO P1070.12H, Marine Corps Individual Records Administration Manual (IRAM), contains general guidance and standards in assigning conduct and performance marks. The commander is afforded full discretion in the assignment of marks that may be outside these standards for good and sufficient reasons. Paragraph 4012 of the IRAM authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book (SRB), medical records, or the Marine's automated record.

3. The following comments/opinions concerning Corporal [REDACTED] request for correcting his assigned conduct and duty proficiency marks are provided:

a. Corporal [REDACTED] claims that he initially received 4.9 and 4.8 "PRO's and CON's. However, he does not offer documented evidence to support this nor provide information indicating what occasion he should have received these marks. We can presume that he is referring to the assignment of 4.7 proficiency marks and 4.0 conduct marks for the period covering 19970901 through 19980131 relating to the occasion when he received his page 11 counseling entry dated 971208.

b. Conduct marks of 4.0 are not derogatory that requires documentation to support their assignment per the guidelines set forth in paragraph 4007.6 of the IRAM. These marks are considered "good" which represents Corporal [REDACTED] conduct for the period covering 19970901 through 19980131.

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[REDACTED] USMC

c. Duty proficiency marks of 4.7 are not derogatory that requires documentation to support their assignment per the guidelines set forth in paragraph 4007.7 of the IRAM. These marks are considered "excellent" which represents Corporal [REDACTED] performance in all of his regular duties for the period covering 19970901 through 19980131.

d. Corporal [REDACTED] commander used the general guidance and standards in assigning the 4.7/4.0 marks per the IRAM. Full discretion is left to his commander to assign marks outside these standards for good and sufficient reasons if documented by a page 11 entry. The page 11 counseling entry dated 971208 meets the requirement of documenting the assignment of a conduct mark below 4.0. However, his commander elected not to exercise that option.

3. The following comments/opinions concerning the page 11 entry dated 971208 are provided:

a. The counseling entry does meet the elements of a proper page 11 counseling in that it lists deficiencies, recommendations for corrective action, where assistance can be found, and states that Corporal [REDACTED] was provided the opportunity to make a rebuttal statement. Additionally, he was afforded an opportunity to annotate whether or not he chose to make such a statement and if made, a copy of the statement would be filed in the service records. Corporal [REDACTED] acknowledged the counseling entry by his signature and further chose "to" make a statement in rebuttal.

b. Paragraph 4012.3y of the IRAM refers the commander to MCO P5300.12 for guidance concerning an alcohol-related incident. Paragraph 1206 of MCO P5300.12A authorizes a commander to take prompt and appropriate administrative action. Paragraph 1206 further states that all charges of intoxicated driving in violation of local legal blood-alcohol content (BAC) will be treated as an alcohol-related incident until adjudication. Plea bargaining of intoxicated driving to a lesser offense is still an alcohol-related event. All events or incidents of alcohol abuse will be the subject of formal command counseling with the Marine involved.

c. The contents of Corporal [REDACTED] page 11 entry refers to an alcohol-related incident.

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d. Corporal [REDACTED] acknowledges in his rebuttal statement that he was involved in an alcohol-related incident. Additionally, he claims that his records are to be in error or unjust because he "was not convicted of the [of the] infraction while on active duty. The offense happened off base and never hit the Marine Corps blotter." is irrelevant. The incident still occurred.

e. It appears that Corporal [REDACTED] commander followed published policies and procedures concerning this incident.

4. In view of the above, it is recommended that:

a. The Board disapprove Corporal [REDACTED] request for correction of his assigned conduct and duty proficiency marks in his service records.

b. The Board disapprove Corporal [REDACTED] request to remove the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 971208 and his rebuttal statement from his service records.

c. We defer advisory opinion concerning Corporal [REDACTED] request for correction of error or injustice concerning his promotion issue to the cognizant Headquarters Marine Corps Division, MMPR.

5. Point of contact [REDACTED]

[REDACTED]

Director
Manpower Management Information
Systems Division



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

4427-00

IN REPLY REFER TO:
1400/3
MMPR-2
21 May 01

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

Subj: ADVISORY OPINION IN THE CASE OF CORPORAL [REDACTED]
0 [REDACTED] USMC

Ref: (a) Dir, MI Division ltr 1070 MIFD of 11 May 2001

1. We are asked to provide an opinion regarding Corporal [REDACTED] request for promotion to sergeant upon the adjustment of the proficiency and conduct marks he received and the removal of the page 11 entry dated 971208 from his service records.

2. To receive promotion to the rank of sergeant a Marine has to meet the cutting score for that promotion period and be recommended for promotion by his/her Commanding Officer. It was at the discretion of Corporal [REDACTED] Commanding Officer to recommend him for promotion to sergeant. It is not clear as to which promotion period Corporal [REDACTED] is referring to with his request, and there is no indication in his records that he was recommended for promotion to sergeant. Per the reference, nothing has changed in Corporal [REDACTED] service records therefore we cannot take any further action. It is recommended that if Corporal [REDACTED] desires to submit for remedial promotion consideration he can do so through his chain of command.

[REDACTED]

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