



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

BJG
Docket No: 10418-07
25 July 2008

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD (PARTIAL RECONSIDERATION)

Ref: (a) Title 10 U.S.C. 1552

- Encl: (1) DD Form 149 dtd 4 Feb 08 w/attachments
(2) AGC (M&RA) memo dtd 4 Feb 08
(3) BCNR ltr BJJG Docket No: 11114-06/6543-05/
7068-04 dtd 4 Jun 07 w/encls
(4) HQMC MMPR-2 memo dtd 31 Mar 08 w/encls
(5) Subject's ltr dtd 24 Jun 08
(6) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected by changing the date of rank and effective date of his promotion to gunnery sergeant (pay grade E-7) from 1 July 1994 to 1 July 1993; and changing the date of rank and effective date of his promotion to master sergeant (pay grade E-8) from 1 April 2001 to 1 April 2000, to reflect selection by the Calendar Year (CY) 2000 Master Sergeant Selection Board, vice the CY 2001 Master Sergeant Selection Board. He further requested remedial consideration for promotion to Master Gunnery Sergeant (pay grade E-9) for the CY 2003 and Fiscal Year (FY) 2005 Master Gunnery Sergeant Selection Boards. Finally, he requested that his transfer to the Fleet Marine Corps Reserve effective 1 July 2008, by reason of service limitations, be set aside and that he be retroactively reinstated to active duty as a master sergeant. In his previous case, docket number 7068-04, his request for remedial consideration for the CY 2000 Master Sergeant Selection Board was denied on 18 November 2004. In another previous case, docket number 6543-05, his request for remedial consideration for the FY 2005 Master Gunnery Sergeant Selection Board was denied on 22 November 2005. By enclosure (2), the Assistant General Counsel (Manpower and Reserve Affairs) directed that a

new panel of the Board consider Petitioner's case, and that the panel's recommendation be forwarded to him for review and final disposition.

2. An entirely new panel of the Board, consisting of Messrs. Butherus, J. Hicks and Ivins, reviewed Petitioner's allegations of error and injustice on 24 July 2008, and pursuant to its regulations, determined that relief should be denied. Documentary material considered by the Board consisted of the enclosures, 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, finds as follows:

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

b. Enclosure (1) was filed in a timely manner.

c. By letter of 4 June 2007, a copy of which is at enclosure (3), Petitioner was advised that the Board would not consider his applications of 11 December 2006 and 3 May 2007, noting that Headquarters Marine Corps (HQMC) had verified that all references to his nonjudicial punishment, whose removal had been directed as a result of an earlier favorable Board action, had been removed before his latest remedial consideration for the CY 2000 Master Sergeant Selection Board and the FY 2005 Master Gunnery Sergeant Selection Board. This letter also concluded it has not been established that the Marine Corps Total Force System (MCTFS) time lost entry was incorrect, so proving that it had been considered by any of Petitioner's selection boards would not be a valid basis for granting him relief.

d. In one of Petitioner's prior cases, docket number 6843-05, the Board addressed his contention that when the FY 2005 Master Gunnery Sergeant Selection Board considered him, he had only two observed fitness reports since his restoration to active duty in accordance with another earlier favorable Board action. The Board noted this would not be a basis for remedial consideration, as his record was as complete as it could be, and the problem that he had few observed fitness reports as of the date the promotion board met cannot be corrected.

e. In enclosure (4), the HQMC Enlisted Promotion Section commented to the effect that Petitioner's request was without merit.

f. Enclosure (5) is Petitioner's reply to the advisory opinion at enclosure (4), maintaining his position that the relief requested is warranted.

CONCLUSION:


Upon review and consideration of all the evidence of record, the Board substantially concurs with enclosure (4) and still finds it has not been established that the MCTFS time lost entry was incorrect. Accordingly, the Board's recommendation is as follows:

RECOMMENDATION:

a. That relief be denied.

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.

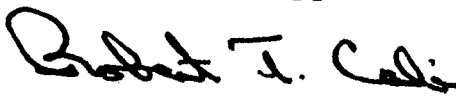
ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.


W. DEAN PFEIFFER

Reviewed and approved:


7-29-08

Robert T. Call
Assistant General Counsel
(Manpower and Reserve Affairs)