

JAM



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

BJG  
Docket No: 10729-08  
19\*March 2010

[REDACTED]

[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.

You requested that your transfer to the Fleet Marine Corps Reserve (FMCR) effective 1 July 2008 be set aside and that you be afforded remedial consideration for promotion for the Fiscal Year (FY) 2009 Master Gunnery Sergeant Selection Board. Your request to set aside your transfer was denied in your previous case, docket number 10418-07, by the Assistant General Counsel (Manpower and Reserve Affairs) on 29 July 2008.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 March 2010. 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, the Board's file on your previous case, your naval record and applicable statutes, regulations and policies. The Board also considered the advisory opinion from Headquarters Marine Corps (HQMC), dated 10 December 2008, a copy of which is attached. Finally, the Board considered your rebuttal letter dated 24 June 2009.


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 found that you offered nothing new and material regarding your transfer to the FMCR except your contention, in paragraph 5 of your letter dated 24 June 2009, that you submitted a request, never received by the HQMC Separation and Retirement Branch, to be extended on active duty from 1 July 2008 to 1 January 2009 with an associated request to be considered by the FY 2009 Master Gunnery Sergeant Selection Board. Because you provided no copy of your request, the Board was unable to find that it was, in fact, submitted or that its content was as you state. Further, the Board felt that if you had gotten no response to a request of such importance to your career, you should have followed up on it.

Since the Board found insufficient basis to conclude you should have been considered by the FY 2009 Master Gunnery Sergeant Selection Board, it had no basis to recommend you be afforded remedial consideration for that promotion board.

In view of the above, 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 PFELFNER  
Executive Director

Enclosure