



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

SMC
Docket No: 00020-99
23 April 1999

SSGT [REDACTED] USMC
[REDACTED]

Dear Staff Sergeant [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 22 April 1999. 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 28 December 1998, a copy of which is 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 report of the PERB. 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.

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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

Enclosure

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

IN REPLY REFER TO:
1610
MMER/PERB
DEC 28 1998

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

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED], [REDACTED] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 26 Oct 98
(b) MCO P1610.7D w/Ch 1-2

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 22 December 1998 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970101 to 970422 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends there are inaccuracies and procedural errors associated with the report. Specifically, he objects to the length of time it took the Reporting Senior to complete the report and provide counseling (49 days); that there are no official Page 11 entries in his Service Record Book (SRB) to indicate any counseling occurred, that the mark of "average" in Item 14i (personal relations) is not consistent with Section C; and that there are no Section C comments to substantiate the markings of "below average" in Items 14c (military presence), 14i (force), and 14j (leadership). To support his appeal, the petitioner furnishes a copy of the report at issue and a copy of a letter prepared by the Reporting Senior for the petitioner's use before the FY98 Gunnery Sergeant Promotion Board.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. While neither this Headquarters nor the PERB condone the late processing/submission of fitness reports, that single fact does not somehow invalidate an otherwise acceptable fitness report. In this regard, we conclude that the Reporting Senior's tardiness in completing the fitness report does not call into question the fairness or accuracy of the overall evaluation.

b. The Board is quick to point out that performance counseling and the official recording of counseling sessions via Page 11 SRB entries are separate and distinctly different

(3) PERB

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administrative actions. One is simply not dependent on the other.

c. Contrary to the petitioner's arguments and assertions, the marks in Section B are consistent with and complement the narrative comments in Section C. For example, the low marking in "force" is substantiated by the statement concerning the petitioner's passive nature. Likewise, the marks in "leadership" and "military presence" are fully supported by the opening sentence, to wit: "SSg [REDACTED] has been formally relieved as the platoon sergeant because his military presence, force, and personal example proved inadequate for the requirements of this billet."

d. Captain [REDACTED] letter to the Promotion Board was authored a full year after the ending date of the challenged fitness report. It's purpose was not to invalidate or somehow call into question the fitness report under consideration, but to endorse the petitioner's advancement to the grade of Gunnery Sergeant.

e. The fact that the Third Sighting Officer (Colonel [REDACTED]) may not have totally agreed with all of the markings does not negate the report. What he goes on to say is that the report ". . . may be an accurate portrayal. . ." of what the petitioner had done during the reporting period, but that it should not be a "career terminator."

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps