



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

BJG  
Docket No: 7406-98  
22 April 1999

SSG [REDACTED] USMC  
[REDACTED]  
[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, 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 21 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 13 October 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.

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

7406-98



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
13 Oct 98

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] USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 22 Jul 98  
(b) MCO P1610.7C w/Ch 1-6  
(c) MCO P5300.12 (Substance Abuse Program)

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 7 October 1998 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 950101 to 950314 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that submission of the report was unjust. To support his argument, the petitioner furnishes his own statement detailing the "sequence of events", as well as other documents which he believes corroborates his position.

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. At the outset, the Board emphasizes that when the petitioner acknowledged the adverse nature of the report (via signature in Item 24), he opted to omit any statement in his own behalf. In so doing, he passively concurred in the accuracy of the evaluation without presenting any matters in extenuation or mitigation. The issues which he now surfaces in reference (a) should have been raised at the time, when all parties were available to resolve any factual differences. To do so more than three years after the fact, and when the situation is presented from a one-sided perspective, lacks both timeliness and credibility. To this end, the Board invites attention to subparagraph 5007 of reference (b), the applicable portion of which is quoted verbatim: "The appeal process is not a substitution for an attempt at proper resolution of an adverse report at the time the report is prepared."

b. Contrary to the petitioner's statement that he never received any counseling for the first alcohol-related incident, his rebuttal to the counseling entry in his Service Record Book

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(SRB) reveals that he acknowledged being". . . screened by the DAPA on 950301 as a direct result of being intoxicated on 950203." This incident occurred immediately after his "Wet Down" to staff sergeant. He further admits to a second screening on 950322 for an incident on 950314 wherein he was legally under the influence of alcohol. The statement from Warrant Officer [REDACTED] although supportive, is his opinion of what should have taken place as opposed to the actions taken by the command.

c. Based on the actions taken by the command to have the petitioner seen by competent authorities to determine alcohol dependency or alcohol abuse, it is reasonable to conclude that their interpretation of subparagraph 3009.1 of reference (b) and the provisions of reference (c) were within the spirit and intent of both directives.

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]'s 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