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

BJG
Docket No: 8472-98
22 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, United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has modified your contested fitness report for 16 November 1997 to 30 June 1998 by changing item 4.b (number of months) to show the report was for "5" rather than "8" months.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 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 4 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. They noted that Marine Corps Order P1610.7D, paragraph 3012.3, states the time of submission of a fitness report is an inappropriate occasion for counseling. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. In view of the above, your application for relief beyond that effected by CMC 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

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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

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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
4 Dec 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] D Form 149 of 1 Oct 98
(b) MCO P1610.7C w/Ch 1-4

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 3 December 1998 to consider Staff Sergeant [redacted] petition contained in reference (a). Removal of the fitness report for the period 971116 to 980630 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner disclaims specific guidance and counseling on her performance by the Reporting Senior, Major [redacted] and argues that she was given no "substantial explanation" as to why the challenged report was marked lower than the two previous reports. To support her appeal, the petitioner provides statements from Gunnery Sergeants [redacted] and [redacted]

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

a. Notwithstanding the statements from Gunnery Sergeants [redacted] and [redacted] the Board is simply not convinced or otherwise persuaded that the petitioner was not counseled in some form or made aware of the Reporting Senior's expectations regarding performance/accomplishments. Since Ma[redacted] had been the petitioner's Reporting Senior for two previous fitness reports, it is more likely than not that their interaction had been established. Likewise, there is no showing here that the report reflects anything other than an accurate and honest assessment of performance. While prior and subsequent fitness reports are not necessarily indicative of absolute performance/potential, the Board points out that the fitness report at issue is not unlike several others the petitioner has received throughout her career.

b. The one administrative error associated with the report concerns the information in Item 4b (number of months covered). Given the period of nonavailability listed in Item 3d, the total

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number of months covered should reflect "05." The PERB has directed the appropriate correction and concludes this minor oversight in no way invalidates the fitness report.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as modified, should remain a part of Staff Sergeant [redacted] official military record. The limited corrective action identified in subparagraph 3b is considered sufficient.

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