



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 03415-99

5 August 1999

SGT [REDACTED] USMC

16

Dear Se [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 5 August 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 24 May 1999, 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. 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 PFEIFFER
Executive Director

Enclosure



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

3415-99

IN REPLY REFER TO:
1610
MMER/PERB
MAY 24 1999

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
SERGEANT [REDACTED] USMC

Ref: (a) Sergeant [REDACTED] DD Form 149 of 29 Jan 99
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 19 May 1999 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 980107 to 980202 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner infers that he was unjustly disenrolled from the Staff Noncommissioned Officer Academy for an alleged integrity violation. To support his appeal, the petitioner furnishes statements from First Sergeant [REDACTED] Sergeant [REDACTED]

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. In his statement appended to reference (a), the petitioner has surfaced the same issues and concerns he levied when he submitted his statement of rebuttal. At that time, the Reviewing Officer resolved and adjudicated the situation, albeit finding in favor of the Reporting Senior's decision to disenroll the petitioner and effecting the subsequent adverse fitness report.

b. While the statements from First Sergeant [REDACTED] Gunnery Sergeant [REDACTED] complimentary and supportive, they do nothing to invalidate the report or cause the Board to question the actions of the reporting officials. In this regard, we stress that First Sergeant [REDACTED] though a former instructor and "acting Director" of the Sergeant's Course, was not in that position at the time. Additionally, we also note that in his letter First Sergeant [REDACTED] indicates that the decision to disenroll a student rests with the Director -- a decision that was obviously made by the individual occupying that billet at the

(3) PGAB

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time. Gunnery Sergeant [REDACTED] observations of the petitioner center on his performance in his military occupational specialty and do not address the circumstances surrounding his disenrollment from a formal course of instruction.

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

5. The case is forwarded for final action.

[REDACTED]

[REDACTED] Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps