



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

SMC
Docket No: 02992-99
5 August 1999

[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 of the United States Code, section 1552. You requested removal of a fitness report for 3 March to 25 June 1993.

It is noted that the Commandant of the Marine Corps (CMC) has modified the contested fitness report by completely eliminating the reviewing officer's certification.

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 3 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 warranting further correction. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. 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 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

299299

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

2992-99



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

IN REPLY REFER TO:
1610
MMER/PERB
MAY 3 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 STAFF
SERGEANT [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 10 Mar 99
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 29 April 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 930303 to 930625 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that certain marks in Section B conflict with the narrative comments in Section C and points out why she believes four of the five "excellent" marks should be "outstanding." The petitioner further states that certain comments in Section C violate the provisions of reference (b), and finally, that she should have been afforded an opportunity to respond to the adverse comments made by the Reviewing Officer.

3. In its proceedings, the PERB concluded that:

a. As contended, the Reviewing Officer's comments are clearly adverse. Hence, the petitioner should have been required to sign Item 24 and append a statement of rebuttal. To effect such action at this late date would serve no constructive or useful purpose. The Board has, therefore, directed the elimination of the entire Reviewing Officer's Certification.

b. The remainder of the report is both administratively correct and procedurally complete as written and filed. Notwithstanding the petitioner's arguments and beliefs, the Board discerns absolutely no inconsistency or conflict between any of the assigned ratings in Section B and the comments in Section C. That she believes the narrative portion of the report portrays a Marine who should have received several more grades of "outstanding" is viewed as her opinion of her level of performance versus that of the individual charged with the responsibility of officially evaluating and recording that performance (i.e., the Reporting Senior). Likewise, the Board finds nothing in violation of the spirit and intent of reference (b).

63J PERB

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

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 3a 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