



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

SMC
Docket No: 02223-99
16 July 1999

~~XXXXXXXXXX~~ USMC
~~XXXXXXXXXX~~
~~XXXXXXXXXX~~

Dear Sergeant ~~XXXXXXXXXX~~

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 8 March to 2 October 1995.

It is noted that the Commandant of the Marine Corps (CMC) has modified the contested fitness report by removing the sentence "Sgt [your last name] balances work and a difficult situation in an unselfish and unswerving manner."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 July 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 29 March 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. The language "participant in exceptional family program. Son involved in tragic car accident; left with learning disabilities," which appeared in the fitness report copy you provided with your application, did not appear in the report of record when the PERB reviewed your case. Your unsupported assertion did not persuade this Board that you should have been marked "not observed" in item 13e ("Handling Enlisted Personnel") of the contested fitness report. 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 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

2223-99

IN REPLY REFER TO:
1610
MMER/PERB

MAR 29 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 28 Dec 98
(b) MCO P1610.7D

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 25 March 1999 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 950308 to 951002 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner believes that the markings in Items 13c (administrative duties), 13e (handling enlisted personnel), and 14i (force) are not in consonance with the comments in Section C. She also contends that Section C of the fitness report contains a comment which is prohibited by reference (b) (i.e., concerning Exceptional Family Member Program (EFMP)).

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. Contrary to what the petitioner may believe, the Board discerns absolutely no inconsistency between any of the marks assigned in Section B and the narrative comments in Section C. That she opines otherwise is viewed as employing semantics and her perception of achievement vice that of the Reporting Senior.

b. While there is no direct reference to the EFMP, the subtlety is nevertheless present. To alleviate any perception of inappropriate comments, the Board has directed elimination of the following sentence: "Sgt [REDACTED] balances work and a difficult situation in an unselfish and unswerving manner."

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 Sergeant [REDACTED] official military record. The limited corrective action identified in subparagraph 3b is considered sufficient.

