



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

SMC  
Docket No: 00876-99  
15 October 1999

SG [REDACTED] USMC  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear 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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 October 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 (HQMC) Performance Evaluation Review Board (PERB) in your case, dated 8 February 1999, and the advisory opinion from HQMC Manpower Equal Opportunity Branch (MPE), dated 8 July 1999, copies of which are attached. They also considered your letter dated 19 September 1999 with enclosure.

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 and the advisory opinion. They noted that the supporting statement from your noncommissioned officer in charge during the pertinent reporting period actually contradicted your assertion that he was biased against you. 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

Enclosures

876-99



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
FEB 28 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 Oct 98  
(b) MCO P1610.7D

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 4 February 1999 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 950301 to 950801 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner believes that his evaluation was unfairly influenced by his staff noncommissioned officer (Staff Sergeant [REDACTED]). Thus, he contends the overall evaluation is unfair. To support his appeal, the petitioner furnishes his own statement, and copies of commendatory correspondence.

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. When the petitioner acknowledged the adverse nature of the report, 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 and mitigation. For whatever he opted for that course of action, it is he who must now accept responsibility for that decision.

b. While the commendatory correspondence speaks well of the petitioner's accomplishments, the Board is haste to point out that everything is for performance subsequent to the challenged fitness report. Hence, it has no relevance to the issues at hand.

c. Notwithstanding the petitioner's own statement, there is absolutely nothing to substantiate his claim that the evaluation was unduly influenced by Staff Sergeant [REDACTED]. Likewise, the Board finds nothing in reference (a) to prove that the petitioner somehow rated more than what has been recorded. To this end, the Board concludes that the petitioner has failed to meet the burden

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
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SERGEANT [REDACTED] USMC

of proof necessary to establish the existence of either an error or an injustice.

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]

Chairperson, Performance  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps



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

876-99

IN REPLY REFER TO:

5354

MPE

8 Jul 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTIONS OF  
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF SERGEANT [REDACTED]

Ref: (a) BCNR memo of 24 Jun 99  
(b) Sergeant [REDACTED] DD Form 149 of 29 Oct 98

1. Per the references, Sergeant [REDACTED] request for BCNR action and attendant documentation have been reviewed in their entirety. It is the opinion of this office that, based on the information provided, there is insufficient evidence to warrant a determination of "bias treatment" on the part of Staff Sergeant [REDACTED] Major [REDACTED]. If Sergeant [REDACTED] has additional documentation to strengthen his case, it is highly recommended that it be provided for consideration. It does appear unusual that the one fitness report is the only blemish on his record, but it may have been serious enough to preclude selection to the next higher grade.

2. The point of contact in this matter is Mr. [REDACTED]

[REDACTED]  
Deputy  
Manpower Equal Opportunity Branch  
Manpower Plans and Policy Division