



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

SMC  
Docket No: 03431-99  
17 September 1999

SGT [REDACTED] USMC  
[REDACTED] BN

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 16 September 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), 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.

The Board noted the fitness report at issue now appears in your Official Military Personnel File (OMPF). While the reviewing officer may not have been in your company during the relevant reporting period, the Board found this would not invalidate his comments, since his comments need not be based on firsthand observation. Regardless of any previous versions of the report, the Board noted the report of record is the only valid report for the period concerned, since this is the report that your reporting officials chose to submit for file in your OMPF. Finally, the Board found your report received a proper administrative third sighting by HQMC.

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

343199



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

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] D Form 149 of 8 Mar 99  
(b) MCO P1610.7D w/Ch 1-3

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 970214 to 970813 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is neither a fair nor accurate portrayal of his performance. To this end he claims "unwarranted bias and substantive inaccuracies."

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 furnished with reference (a), the petitioner has surfaced the same basic disagreements and challenges he raised when he officially acknowledged and responded to the evaluation. The Reviewing Officer of record, Captain [REDACTED], answered the disclaimer to counseling and concurred in the Reporting Senior's overall assessment.

b. Other than his own statement, the petitioner has furnished absolutely no documentary evidence whatsoever to substantiate his position that the report is neither fair nor accurate. In this regard, the PERB stresses it's position that to justify the deletion or amendment of a fitness report, evidence of probable error or injustice should be produced. Such is simply not the situation in this case.

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.

(3) PERB

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

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