



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

BJG  
Docket No: 2442-01  
21 June 2001

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: GYSG [REDACTED] USMC, [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 31 Dec 00 w/attachment  
(2) HQMC MMER memo dtd 28 Mar 01 w/encl  
(3) HQMC MIFD memo dtd 30 May 01  
(4) HQMC HS memo dtd 5 Jun 01  
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the fitness report for 1 November 1997 to 26 March 1998. A copy of this report is at Tab A to enclosure (1). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Branch, Personnel Management Division (MMER) has directed removal of the contested fitness report. He also requested removal of the service record page 11 ("Administrative Remarks (1070)") entry dated 10 March 1998, a copy of which is at Tab B to enclosure (1). He further requested removal of the "Report of Mental Status Evaluation" dated 20 February 1998, a copy of which is at Tab C to enclosure (1). Finally, he requested removal of the request for his relief for cause (RFC) dated 15 May 1998 and all related documentation; this request was not considered because the RFC documentation is not in Petitioner's Official Military Personnel File.

2. The Board, consisting of Messrs. Pfeiffer and Silberman and Ms. Madison, reviewed Petitioner's allegations of error and injustice on 20 June 2001, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (3), the HQMC Manpower Management Information Systems Division (MIFD), the office having cognizance over the subject matter addressed in Petitioner's application regarding his request to remove the page 11 entry, has commented to the effect that his request has merit and warrants favorable action.

c. In correspondence attached as enclosure (4), the Director for Medical Programs, Health Services, HQMC (HS) has commented to the effect that Petitioner's request to remove "Report of Mental Status Evaluation" has merit and warrants favorable action.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (3) and (4), the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing therefrom the service record page 11 ("Administrative Remarks (1070)") entry dated 10 March 1998 and his rebuttal dated 19 March 1998. In effecting this action, the entry to be removed is to be physically removed or completely obliterated so it cannot be read, rather than merely lined through.

b. That Petitioner's medical record be corrected by removing the "Report of Mental Status Evaluation" dated 20 February 1998.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
For W. DEAN PFEIFFER  
Executive Director



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

IN REPLY REFER TO:  
1610  
MMER  
28 Mar 01

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

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

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 16 Mar 01

1. As evidenced by the enclosure, PERB removed from Gunnery Sergeant [REDACTED]'s official military record, the fitness report for the period 971101 to 980326 (CD).

2. We defer to BCNR on the remainder of Gunnery Sergeant [REDACTED] requests.

[REDACTED]

Head, Performance Evaluation  
Review Branch  
Personnel Management Division  
By direction of the Commandant  
of the Marine Corps

1610  
MMER/PERB  
1 MAR 2007

From: Commandant of the Marine Corps  
To: Gunnery Sergeant [REDACTED] SMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) Your DD Form 149 of 31 Dec 00  
(b) MCO 1610.11C  
(c) MCO P1400.32C (Chapter 3)

- 1. This responds to your request contained in reference (a).
- 2. Per the provisions of reference (b), the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
2 Apr 98	[REDACTED]	971101 to 980326 (CD)

- 3. There will be inserted in your Naval record a memorandum in place of the removed report containing appropriate identifying data concerning said report. The memorandum will state that the report has been removed by order of the Commandant of the Marine Corps and may not be made available to selection boards and other reviewing authorities; that such boards may not conjecture or draw any inference as to the nature of the report. The Automated Fitness Report System will be corrected accordingly.
- 4. If you believe the fitness report identified in paragraph 2 above adversely affected your consideration by a regularly convened selection board, your proper recourse is to inquire with the Enlisted Promotion Section (MMPR-2) as to your eligibility for remedial promotion consideration under the provisions of reference (c).
- 5. Since the remainder of your requests do not fall under the purview of this Headquarters, your case is being forwarded to the Board for Correction of Naval Records (BCNR) for final resolution. Additional inquiries should be made directly to that agency at 703-614-9851.

[REDACTED]  
By direction



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

2442-01

IN REPLY REFER TO:

1070  
MIFD ...  
30 MAY 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

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

1. We reviewed Gunnery Sergeant [REDACTED]'s application concerning his request for removal of the following documents from his service records:
  - a. Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 980310.
  - b. Relief for cause and any documentation related to that matter.
  - c. Documents relating to a mental health evaluation which took place on 20 Feb 98.
2. MCO P1070.12H, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book or the Marine's automated record and will be useful to future commanders.
3. One of the many leadership tools that a commander has at their disposal is counseling and rehabilitation for their Marines. Marine Corps policy is that reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings and that the commander is authorized to document those efforts by a page 11 counseling entry per the IRAM. The Marine Corps Separation Manual, paragraph 6105, sets forth policy pertaining to counseling and rehabilitation. In cases involving unsatisfactory performance, pattern of misconduct, or other bases requiring counseling under paragraph 6105, separation processing may not be initiated until the Marine is counseled concerning deficiencies, and afforded a reasonable opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records.

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

4. MCO 1610.12, the U.S. Marine Corps Counseling Program states that:

a. "Counseling is that part of leadership which ensures, by mutual understanding, that the efforts of leaders and their Marines are continuously directed toward increased unit readiness and effective individual performance.

b. Increase individual performance and productivity through counseling and thereby increases unit readiness and effectiveness.

c. Counseling enhances the leader's ability to improve the junior's performance."

5. The following comments/opinions concerning the page 11 entry dated 980310 are provided:

a. The counseling entry does not meet the elements of a proper page 11 counseling in that it fails to list recommendations for corrective action and available assistance per paragraph 4012.3aa of the IRAM.

b. Gunnery Sergeant [REDACTED] acknowledged the counseling entry by his signature and indicated his desire to make a statement in rebuttal. He does refute the contents of the page 11 entry in his rebuttal statement which is included in his application.

6. The following comments/opinions concerning the relief for cause and any documentation related to that matter is provided:

a. Paragraph 1000.4 of the IRAM sets forth guidance and provides information on the contents of the OMPF in use at Headquarters, U. S. Marine Corps. Limitations exist regarding the types of documents authorized for inclusion in the OMPF.

b. Correspondence concerning his relief for cause and any documentation relating to that matter was not found on Gunnery Sergeant [REDACTED] OMPF after a thorough review was conducted.

7. The following comments/opinions concerning the inclusion in his medical records documents relating to a mental health evaluation which took place on 20 Feb 98 are provided:

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

a. Paragraph 1000.3f of the IRAM sets forth guidance and provides information on the contents of the OMPF health/dental files. Additionally, this paragraph refers to the Department of the Navy Manual of the Medical Department (MANMED) concerning documents maintained in the field health and dental records.

b. Documents relating to a mental health evaluation which took place on 20 Feb 98 is not on file in his OMPF.

8. In view of the above, it is recommended that:

a. The Board approve Gunnery Sergeant [REDACTED] request for removal of the Administrative Remarks (1070), NAVMC 118(11), page 11 entry dated 980310 from his service records.

b. We defer comments/opinions and recommendations on Gunnery Sergeant [REDACTED] request for removal from his medical records documents relating to a mental health evaluation which took place on 20 Feb 98 to the cognizant Headquarters Marine Corps department, Code HS.

9. Point of contact is [REDACTED]

Director  
Manpower Management Information  
Systems Division



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
2 NAVY ANNEX  
WASHINGTON, DC 20380-1775

1070  
HS  
05 Jun 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

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

1. We have reviewed [REDACTED]'s request for correction of naval record and provide the following input:

a. Our opinion pertains only to paragraph 1. e. of the member's request "I contest the request for and mental health evaluation which took place on 20 Feb 98 and request that it be removed from my medical record".

b. All information in a person's medical record is important to his complete medical history and is normally maintained in the record indefinitely. However, article 16-41 in the Manual of the Medical Department (MMD) does provide for the removal of information from an individual's medical record. The BCNR is listed as one of the expungement authorities.

c. It is a common practice, authorized by MMD article 16-7, for mental health units in Naval Medical Facilities to create a secondary record for their patients. Depending on the amount of time passed since the GySgt's evaluation, the information from that evaluation could possibly be on file in a secondary record.

d. In the case [REDACTED] the mental health evaluation in question ended with a favorable endorsement for the member and, in our opinion, its removal from his medical record would not negatively impact the record of his medical history. Therefore, our recommendation is that the material in question be removed from his primary and any secondary records.

2. The point of contact in this office is [REDACTED] or [REDACTED]  
[REDACTED]

Sincerely,

[REDACTED]

Director for Medical Programs  
Health Services, HQMC