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

BJG
Docket No: 5129-02
3 September 2002

SSGT [REDACTED] USMC

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.

As indicated in the attached memorandum for the record (MFR) dated 27 August 2002, the Commandant of the Marine Corps (CMC) has corrected your Marine Corps Total Force System (MCTFS) data by removing the special court-martial conviction entry dated 14 September 1999.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 August 2002. 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 30 May 2002, and the advisory opinion from the HQMC Manpower Management Information Systems Support Division, dated 23 August 2002, copies of which are attached, and the MFR dated 27 August 2002. They also considered your rebuttal letter dated 21 June 2002.

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 in concluding that the contested fitness reports should stand. Specifically concerning the report for 27 April to 12 December 1996, they were unable to find your noncommissioned officer in charge had instructed you that you were no longer responsible for the communication material systems (CMS) account. They noted that you signed both items 22 and 24 of this report on the same date, 16 December 1996, not on different dates as your letter of 21 June 2002 asserts. 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

Enclosures

DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)
PERFORMANCE SECTION
2 NAVY ANNEX, SUITE 2432
WASHINGTON, DC 20370-5100
TELEPHONE: (703) 614-2293 OR DSN 224-2293
FACSIMILE: (703) 614-9857 OR DSN 224-9857

MEMORANDUM FOR THE RECORD

DATE: 27AUG02

DOCKET NUMBER [REDACTED]

PETITIONER (PET): SSGT [REDACTED] USMC

PARTY CALLED: [REDACTED]

TELEPHONE: [REDACTED]

WHAT I SAID: I ASKED [REDACTED] MIFD WAS RECOMMENDING REMOVING THE MCTFS ENTRY DTD 14SEP99 .RE PET'S SPCM.

WHAT PARTY SAID: [REDACTED] INFORMED ME THAT PET ALREADY HAD AN UNCONTESTED MCTFS SPCM ENTRY DTD 30MAR98, THE DATE OF HIS SPCM. [REDACTED] SO INFORMED ME THAT MIFD HAD ADMIN REMOVED THE MCTFS SPCM ENTRY DTD 14SEP99.

[REDACTED]



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

5120-02
IN REPLY REFER TO:
1610
MMER/PERB
MAY 30 2002

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]'s DD Form 149 of 15 Jan 02
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 22 May 2002 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 960427 to 961212 (TR)
- b. Report B - 971119 to 980502 (TR)

Reference (b) is the performance evaluation directive governing the submission of both reports.

2. The petitioner simply states the adverse fitness reports are unjust.

3. In its proceedings, the PERB concluded that both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

- a. Report A documents the petitioner's relief as Alternate CMS Custodian and indicates he allowed "misguided trust to cloud his judgment. . ." As evidenced by his signature in Item 24, the petitioner acknowledged the adverse nature of the report. The rebuttal statement he furnished provided his perspective into the situation; however, in the final analysis he admitted to making an "unwise judgment decision."

- b. Regardless of when the offense itself occurred, the Special Court-Martial took place during the finite period covered by Report B. As such, the Reporting Senior was required to mark "yes" in Item 17c (disciplinary action) and he correctly included amplifying information in Section C. Again, the petitioner signed Item 24 acknowledging the adversity of the

5124-01

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

report. He did not, however, choose to provide a statement in his own behalf.

c. It is the Board's position that to justify deletion or amendment of a fitness report, evidence of probable error or injustice should be produced. Such is not the situation in this case.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Reports A and B should remain a part of Staff 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

IN REPLY REFER TO:
1070
MIFD
23 AUG 2002

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

1. We reviewed Staff Sergeant [REDACTED] application and supporting documents concerning his request for removal of the Special Courts-martial entry dated 19990914 from the Marine Corps Total Force System (MCTFS).
2. Staff Sergeant [REDACTED] claim why he believes that his records are in error or unjust is supported by the documents contained in his application, his service records, and policies contained in Marine Corps directives.
3. It is recommended that Staff Sergeant [REDACTED] be granted relief. If this action is concurred with, recommend MMPR review Staff Sergeant [REDACTED] record to determine if the erroneous entry jeopardized his opportunity for promotion.
4. Point of contact [REDACTED] at DS [REDACTED]
[REDACTED]

Director,
Manpower Management Information
Systems Support Division