



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

BJG
Docket No: 10143-02
24 January 2003

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 January 2003. 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 15 November 2002, 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. Accordingly, 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



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

IN REPLY REFER TO:
1610
MMER/PERB
NOV 15 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] DD Form 149 of 2 Sep 02
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 14 November 2002 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 981001 to 990702 (CD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that his Reporting Senior never revealed that his performance was substandard in any way, even after expressing his belief that the report was not an accurate portrayal of his performance and character. The petitioner also believes the Reviewing Officer should not have concurred with the Reporting Senior's evaluation. To support his appeal, the petitioner furnishes a copy of the challenged fitness report, a copy of a letter of recommendation from the Reviewing Officer, certified true copies of his Company Final Drill Certificate and Physical Fitness Test (PFT) Achievement Award.

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. Contrary to the petitioner's beliefs, there are no so-called poor markings on the fitness report at issue. Likewise, the Board finds nothing in the attachments to reference (a) to either invalidate or question the accuracy, objectivity, or consistency of the report. To this end, the Board concludes that the petitioner has failed to meet the burden of proof necessary to establish either an error or an injustice.

b. In the matter of Captain [REDACTED], letter of 19 April 1999 (enclosure (3) to reference (a)), the Board notes that it

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was furnished to the President of the CY99 Gunnery Sergeant Selection Board to endorse the petitioner's qualifications for promotion. It was not issued as a vehicle to somehow disclaim the contents of the fitness report under consideration. That letter notwithstanding, the Board finds no credence in the petitioner's argument that the Reviewing Officer should not have concurred in the Reporting Senior's evaluation.

c. The certificate at enclosure (4) to reference (a) was for performance during the previous reporting period and has no relevance to the reporting period covered by the challenged report. Finally, the award recognizing the petitioner's physical fitness test (PFT) achievement does not contradict anything in the overall appraisal; his PFT score is an official entry on the fitness report (Item 8b).

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report 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