



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

SMC
Docket No: 01371-99
22 July 1999

GYSG [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Gunnery 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 22 July 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 Performance Evaluation Review Board (PERB), dated 24 February 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 you allege that your initial election not to make a rebuttal to the contested fitness report resulted from your supervisor's persuasion, and your command's failure to advise you that you had five days to draft a rebuttal. You further allege that your supervisor criticized you for wanting to draft a rebuttal. Even if these allegations are correct, the Board was unable to find your ability to make an effective rebuttal was impaired. They noted, in this regard, that you were permitted to submit a rebuttal, despite your initial declination; that the rebuttal has been filed in your record with the report to which it related; and that your rebuttal was dated 1 November 1996, only one month after the reporting period.

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

1371-99



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

IN REPLY REFER TO:
1610
MMER/PERB
FEB 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
GUNNERY SERGEANT [REDACTED], USMC

Ref: (a) GySgt [REDACTED] DD Form 149 of 10 Nov 98
(b) MCO P1610.7D w/Ch 1

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 19 February 1999 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 960501 to 960930 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report was based upon a "quota system" and his leadership was evaluated on that premise. To support his appeal, the petitioner cites prior and subsequent performance and furnishes a letter from Master Sergeant [REDACTED]

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 initially acknowledged the adverse nature of the report, he opted to omit a statement of rebuttal. However, a month later a rebuttal was submitted and reviewed by the Commanding General, Marine Corps Recruit Depot/Western Recruiting Region ([REDACTED]). Although some training shortfalls were acknowledged, the Commanding General nevertheless confirmed the petitioner's leadership failures.

b. The petitioner's claim that his Marine and his Recruiting Substation were recruiter and substation of the month for May 1996, respectively, is not doubted. That, however, was only one month out of a five-month period and not enough to overcome the overall adversity recorded in the fitness report.

c. The petitioner does not substantiate or document that the report was based solely on achieving recruiting quotas. Surely making mission is the purpose of recruiting, but the evaluation also speaks of a lack of resolve, desire, and execution of basic leadership principles.

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

d. Master Sergeant [REDACTED] letter of 15 July 1998 does not invalidate the truth or accuracy of the evaluation under consideration. He was neither the Reporting Senior nor the Reviewing Officer; nor does he substantiate how he was in a better position to judge and evaluate the petitioner than those individuals. He claims the petitioner did not receive proper training. However, that begs the fact that the petitioner graduated from Recruiters School and served 14 months immediately prior to the challenged report as an apparent successful recruiter, and under the same Reporting Senior.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Gunnery Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED SIGNATURE]

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