



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

SMC
Docket No: 02525-99
12 August 1999

SSG [REDACTED] USMC
[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 12 August 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 14 April 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 found no inconsistency between the mark of "unsatisfactory" in judgment and the comments of the reporting senior and reviewing officer. They found the incident cited in the contested fitness report adequately supported the reporting senior's recommendation against your promotion. While they noted the reporting senior did fail to use the precise wording required by Marine Corps Order P1610.7D, paragraph 9.c, they did not consider this a material error warranting corrective action. In this regard, they concluded the reporting senior's remarks clarified that he felt you should not be promoted with your contemporaries, not that you should not be promoted at any time. The supporting statements from a Marine Corps captain, a Marine Corps gunnery sergeant, and a Navy petty officer second class and your reporting senior's recommendation for your promotion did not convince the Board that the contested fitness report was unwarranted.

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

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



IN REPLY REFER TO:
1610
MMER/PERB
APR 14 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 STAFF
SERGEANT [REDACTED] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 3 Feb 99
(b) MCO P1610.7D w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 9 April 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 960101 to 960809 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. It is the petitioner's contention that the report reflects unfavorably on his professional character, performance, qualification for promotion, and judgment. In this regard, he believes the report does not comport with the provisions of reference (b), especially in the rendering of marks of "unsatisfactory" in the area of judgment and "no" in Qualification for Promotion.

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. Notwithstanding the petitioner's own statement and his opinion to the contrary, the Board discerns absolutely nothing in error or unjust. Given the seriousness of the petitioner's lack of judgment which culminated in the imposition of nonjudicial punishment (NJP), the Board concludes that the mark of "unsatisfactory" in that area was justified and appropriate.

b. As a "Team Leader", the petitioner failed in his leadership responsibility. As stated in his own rebuttal, it was one mistake. That "one mistake" however, caused five Marines under his charge to receive NJP. That certainly is not the hallmark of a Marine staff noncommissioned officer who would be favorably considered for advancement to the next higher grade.

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.

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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