



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

BJG  
Docket No: 1156-00  
8 March 2001

SSGT [REDACTED] USMC  
[REDACTED]

Dear Staff [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 8 March 2001. 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 8 February 2001, 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  
 8 FEB 2001

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 27 Nov 00  
 (b) MCO P1610.7D w/Ch 1-3

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 7 February 2001 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970102 to 970110 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner offers matters in extenuation and mitigation of his failures of the physical fitness test (PFT). It is his position that even though he had not received any limited duty instructions, personnel at the Staff Noncommissioned Officers Academy (SNCOA) were aware of his back injury. To support his appeal, the petitioner furnishes copies of prior and subsequent fitness reports, PFT scores and dates, a copy of a graduation certificate from the SNCOA Career course, and a copy of the Career Course SOP.

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. The Board observes that the petitioner failed the initial inventory PFT conducted on 3 January 1997. His own "prudent" man theory would have been appropriate in this case and he should have alerted the instructors and reported to sickbay for an evaluation at that time. He did not and was subsequently retested on 10 January 1997. He also failed that test. Those are the recorded facts and absolutely nothing furnished with reference (a) refutes their accuracy.

b. Although the petitioner has provided, and references, the Career Course SOP on PFT failure (enclosure (4) to reference

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF  
SERGEANT [REDACTED] USMC

(a)), his reasoning is not logical. He evidently fails to realize and note that subparagraph 3006.2b(3) of that directive states in part: "Based on the reason for failure (Academic Disenrollment), the MRO may be required to sign item 24 of Section D." If the petitioner's poor physical fitness had been medically documented and waived prior to attendance at the academy, this would not have been an issue (subparagraph 2004 of enclosure (4) to reference (a)). The injury was not a preexisting condition and was not medically waived. Therefore, passing the PFT was an expected prerequisite for attendance.

c. The petitioner states undeniably that he was afforded the opportunity to seek medical attention but refused. He obviously made a conscious decision to not avail himself of such assistance and should remain responsible for his own actions. Succinctly stated, the challenged fitness report was not due to medical problems as the petitioner infers, but rather failure of two PFTs (a prerequisite to attendance at the SNCOA).

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