



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

BJG  
Docket No: 1263-01  
8 May 2001

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: GYSG [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 3 Nov 00 w/attachments  
(2) HQMC MMER memo dtd 20 Feb 01 w/attachment  
(3) HQMC MIFD memo dtd 1 Feb 01  
(4) MCRC memo dtd 13 Feb 01  
(5) Subject's ltr dtd 30 Apr 01 w/encl  
(6) Memo for record dtd 3 May 01  
(7) Subject's naval record

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting that his naval record be corrected by removing the fitness report for 7 January to 25 February 2000 and the service record page 11b ("Administrative Remarks (1070)") dated 23 February 2000, copies of which are in enclosure (1) at Tabs A and B, respectively. As reflected in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed removal of the contested fitness report.
2. The Board, consisting of Messrs. Ivins and Pauling and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 3 May 2001, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
  - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
  - b. The contested page 11b entry shows that when Petitioner was at recruiter school, he was counseled for failure to obey an order to rappel. He alleges this entry is false, as he asserts that no such order was given. He also provides documentation establishing that on 18 February 2000, he was diagnosed by a Navy clinical psychologist as having a phobia of

heights. He contends that this phobia did not cause him not to meet the requirements to be a recruiter.

c. In correspondence attached as enclosure (3), the HQMC Field Support Branch, Manpower Management Information Systems Division (MIFD), the office having cognizance over the subject matter addressed in Petitioner's request to remove his page 11b entry, has commented to the effect that this request should be denied, as he has not proven his allegation that the entry is false.

d. Petitioner's case was sent to the Marine Corps Recruiting Command (MCRC) for the purpose of obtaining their comment on his contention that his phobia of heights did not cause him not to meet the requirements to be a recruiter. Their reply, at enclosure (4), did not address that contention, but stated that the contested page 11b entry should stand "as an adequate measure to address the conduct in question."

e. By letter at enclosure (5), Petitioner rebutted the two unfavorable advisory opinions. He reiterated his allegation that the contested page 11b entry was false.

f. The memorandum for the record at enclosure (6) reflects that the HQMC MIFD now feels that the page 11b entry at issue should be removed because it is "unjust and unfair" in light of Petitioner's diagnosed phobia of heights.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting removal of the contested page 11b entry. In this connection, they agree with the revised MIFD position as reflected in the memorandum at enclosure (6). In view of the above, the Board directs the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the service record page 11b ("Administrative Remarks (1070)") entry dated 23 February 2000. This is to be accomplished by reconstructing the page 11b on which the entry appears, or completely obliterating the entry so that it cannot be read, rather than merely lining through it.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

*Jonathan S. Ruskin*  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

*Robert D. Zsalmán*  
For W. DEAN PFEIFFER  
Executive Director

1203-01



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

IN REPLY REFER TO:

1610  
MMER  
20 Feb 01

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

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

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 23 Jan 01  
(2) CMC Advisory Opinion 1070 MIFD of 1 Feb 01

1. As evidenced by enclosure (1), PERB removed from Gunnery Sergeant [REDACTED] official military record, the fitness report for the period 000107 to 000225 (TR).

2. We defer to BCNR on the issue of Gunnery Sergeant [REDACTED] request for the removal of a Page 11 entry. Enclosure (2) is furnished to assist in resolving that matter.

[REDACTED]

Head, Performance Evaluation  
Review Branch  
Personnel Management Division  
By direction of the Commandant  
of the Marine Corps

1203-01

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



IN REPLY REFER TO:

1610  
MMER/PERB  
23 JAN 2001

From: Commandant of the Marine Corps  
To: Gunnery Sergeant [REDACTED] JSMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C  
(b) MCO P1400.32B (Chapter 3)

1. Per reference (a), the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
25 Feb 00	[REDACTED]	000107 to 000225 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed report containing appropriate identifying data concerning said report. The memorandum will state that the report has been removed by order of the Commandant of the Marine Corps and may not be made available to selection boards and other reviewing authorities; that such boards may not conjecture or draw any inference as to the nature of the report. The Automated Fitness Report System will be corrected accordingly.

3. Since your request to remove the Page 11 entry does not fall under the purview of this Headquarters, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for resolution of that issue. Please direct further inquiries to that agency at [REDACTED]

[REDACTED]

By direction



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

IN REPLY REFER TO:

1070  
MIFD  
1 FEB 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

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

1. We reviewed Gunnery Sergeant [REDACTED] application and supporting documents concerning his request for removal of the Administrative Remarks(1070), NAVMC 118(11)b, page 11 entry dated 20000223 from his service records.
2. MCO P1070.12J, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book or the Marine's automated record and will be useful to future commanders.
3. One of the many leadership tools that a commander has at their disposal is counseling and rehabilitation for their Marines. Marine Corps policy is that reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings and that commander is authorized to document those efforts by a page 11 counseling entry per the IRAM. The Marine Corps Separation Manual, paragraph 6105, sets forth policy pertaining to counseling and rehabilitation. In cases involving unsatisfactory performance, pattern of misconduct, or other bases requiring counseling under paragraph 6105, separation processing may not be initiated until the Marine is counseled concerning deficiencies, and afforded a reasonable opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records.
4. MCO P1326.6, Selecting, Screening, and Preparing Enlisted Marines for Special Duty Assignments and Independent Duties (SDAMAN) sets forth criteria and instructions relative to selecting, screening and preparing enlisted Marines for assignment to Special Duties, as in this case, Recruiting Duty.
5. The following comments/opinions concerning the page 11 entry dated 20000223 are provided:

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

a. The counseling entry meets the elements of a proper page 11 counseling in that it lists specific deficiencies and recommendations for corrective action, where assistance can be found and states that Gunnery Sergeant [REDACTED] as provided the opportunity to make a rebuttal statement. Additionally, he must annotate whether or not he chose to make such a statement and if made, a copy of the statement is filed in the service record.

b. Gunnery Sergeant [REDACTED] acknowledged the counseling entry by his signature and indicated his desire to make a statement in rebuttal. However, he does not include the rebuttal statement in his application.

c. Gunnery Sergeant [REDACTED] claim that the page 11 entry was "unjust" and "lacks merit" is not supported by documented evidence included in his application. Lacking supporting documentation, we can not ascertain that the event, disobedience of a lawful order, did or did not occur. What can be determined is that the page 11 entry that was prepared is administratively correct in format and that he was counseled on 20000223.

d. It appears that Gunnery Sergeant [REDACTED] as properly evaluated for assignment to Recruiting Duty per MCO P1326.6 and found qualified, otherwise he would not have been eligible to depart his former unit and report in to the school.

e. We defer advisory opinion concerning Gunnery Sergeant [REDACTED] claim that the page 11 entry is "unjust" and "lacks merit" to the cognizant Headquarters Marine Corps Division, MMEA-85, concerning Marine Corps Recruiter School training qualifications and requirements.

6. In view of the above, it is recommended that the Board disapprove Gunnery Sergeant [REDACTED]'s request for removal of the page 11 counseling entry dated 20000223 from his service records.

7. Point of contact is Mr. [REDACTED] 349.

[REDACTED]

Head, Field Support Branch  
Manpower Management Information  
Systems Division

1263-01



UNITED STATES MARINE CORP  
MARINE CORPS RECRUITING COMMAND  
3280 RUSSELL ROAD  
QUANTICO, VA 22134-5103

IN REPLY REFER TO

1610

G-1

13 Feb 01

MEMORANDUM for the Executive Director, Board for Correction of Naval  
Records

Subj: REQUEST FOR ADVISORY OPINION IN THE CASE OF GUNNERY [REDACTED]  
[REDACTED] USMC

Ref: (a) PERB Request ICO [REDACTED]  
(b) MCO P1610.7E

Encl: (1) CMC (MMER) ltr 1600 G-7 of 9 Feb 01

1. Returned, recommend that the TR Fitness Report for 20000107 - 20000225 be removed without influence. The page 11 entry, however, should remain as an adequate measure to address the conduct in question.
2. The fitness report action taken in this case seems an over-reaction, not in accordance with current evaluation directives. However, GySgt [REDACTED] contention that the report was somehow changed without his knowledge appears to lack any justification.

[REDACTED]  
Chief of Staff



MEMORANDUM FOR THE RECORD

DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)  
PERFORMANCE SECTION  
2 NAVY ANNEX, SUITE 2432  
WASHINGTON, DC 20370-5100  
TELEPHONE: DSN 224-9842 OR COMM (703) 614-9842  
FAX: DSN 224-9857 OR COMM (703) 614-9857

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DATE: 3MAY01

DOCKET NO. [REDACTED]

PETITIONER (PET): SSGT J. [REDACTED] SMC

PARTY CALLED [REDACTED] SMC MIF

TELEPHONE NUMBER: DS [REDACTED]

WHAT I SAID: I ASKED [REDACTED] HE WOULD SUPPORT REMOVING THE  
CONTESTED PAGE 11 ENTRY AS BEING UNJUST BECAUSE PET WAS DIAGNOSED  
WITH ACROPHOBIA AND HE WAS ORDERED TO RAPPEL.

WHAT PARTY SAID [REDACTED] ADVISED ME THAT HE WOULD SUPPORT THE  
BCNR IN REMOVING PET'S CONTESTED PAGE 11 AS BEING UNJUST AND  
UNFAIR.

[REDACTED]