



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 02492-00

8 June 2000

SSGT [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 8 June 2000. 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 5 April 2000, 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

2492-00



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

IN REPLY REFER TO:
1610
MMER/PERB
5 APR 2000

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 10 Jan 00
(b) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 4 April 2000 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 980101 to 980911 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the Reviewing Officer's failure to require him to sign Item 24 of the report and offer him an opportunity to comment renders the report procedurally incorrect and unjust. To support his appeal, the petitioner furnishes his own statement, a copy of the completed report, copies of commendatory correspondence, and copies of pages 11 and 12 from his Service Record Book (SRB).

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 petitioner is correct that the Reviewing Officer should have referred the report to him for official acknowledgment and the opportunity to submit a statement on his own behalf. However, when the fitness report reached this Headquarters, the oversight was detected and appropriate action was taken. The bottom line is that prior to being entered into the petitioner's official military record, the report was properly referred to him for acknowledgment and then forwarded to the appropriate Third Sighting Officer (M [REDACTED]). In this regard, the Board takes specific note that [REDACTED] addressed and thoroughly resolved the petitioner's concerns, albeit in favor of the Reviewing Officer.

b. Concerning the petitioner's allegation of bias, the Board finds that issue without merit. The comments made by Colonel [REDACTED] were directed towards the petitioner's personal life and

(3) PERB

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moral fiber, and how they affected his overall performance as a Marine. Such comments and observations are allowed per the provisions of subparagraphs 4007.4c(2) and 5001.2f(5) and constitute neither an error nor an injustice.

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