



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

SMC
Docket No: 02641-00
17 August 2000

SC [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Serge [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. You requested removal of a fitness report for 19 May 1997 to 31 March 1998 and the service record book page 11 ("Administrative Remarks") counseling entries dated 12 January 1996 and 26 March 1998.

It is noted that the Commandant of the Marine Corps (CMC) has modified the contested fitness report by changing the entry in item 17b (whether Marine was the subject of any adverse report from outside the reporting chain) from "Yes" to "No."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 August 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 (HQMC) Performance Evaluation Review Board (PERB), dated 6 April 2000, and the advisory opinion furnished by HQMC dated 5 May 2000, copies of which are attached, and your letter dated 14 June 2000 with enclosures.

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 warranting further correction. In this connection, the Board substantially concurred with the comments contained in the report of the PERB and the advisory opinion.

Specifically regarding the contested fitness report, the Board did not find it internally inconsistent. They were unable to find the reporting senior and the reviewing officer were incorrect in stating you had been counseled. In any event, the Board generally does not grant relief on the basis of an alleged absence of counseling, since counseling takes many

forms, so the recipient may not recognize it as such when it is provided. Your erroneous Social Security number on the Standard Addendum Page reflecting continuation of the reviewing officer's comments is not a material error warranting corrective action by this Board, although you may address the matter to HQMC (MMSB) if you want this error corrected.

Specifically concerning the contested service record page 11 entry dated 12 January 1996, the Board was unable to find your division staff noncommissioned officer in charge (SNCOIC) had authorized you to change the endorsement in question, notwithstanding the staff sergeant's statement of 22 December 1995 that on your return from the SNCOIC's office, you said he had told you to change it. They were not persuaded that the entry was an extreme response to the matter it addressed. Respecting the entry dated 26 March 1998, your unsupported rebuttal of 2 April 1998 did not convince them that you had not made unauthorized personal use of a government vehicle.

In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

As a matter of information, your rebuttals of 12 January 1996 and 2 April 1998 to the contested page 11 entries do appear in your Official Military Personnel File.

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