



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

SMC
Docket No: 04457-00
24 August 2000

SSGT D [REDACTED] USMC

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 24 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 Performance Evaluation Review Board (PERB), dated 23 June 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. They noted that the reporting senior's statement dated 3 December 1999 did not expressly indicate that the contested fitness report should be removed; rather, he stated that "the multiple re-writes were excessive and confusing for everyone involved." 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

445700

IN REPLY REFER TO:
1610
MMER/PERB
23 JUN 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 28 Mar 00
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 21 June 2000 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970905 to 971231 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report should be removed from his record because of its administrative handling/processing. To support his appeal, the petitioner furnishes his own statement, letters from [REDACTED], and Sergeant Major [REDACTED] copies of two versions of the challenged report.

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. What is of paramount importance is the following statement made by the petitioner in paragraph two of his statement of 28 Mar 00: "It is not my intention to dispute the content of the aforementioned fitness report. I dispute the administrative handling of the fitrep, and the multiple times it was re-written." With this in mind, we emphasize that while neither this Headquarters nor the PERB condone the late submission of fitness reports, that fact alone does not serve to invalidate an otherwise acceptable performance evaluation.

b. The Board views the delay in submitting the final version to the diligence of the Reviewing and Third Sighting Officers in the execution of their duties. By identifying discrepancies, inconsistencies and/or oversights, and subsequently referring the report back for correction, they were upholding the tenets of reference (b). While the period of time involved in this case appears inordinate, at no time was the petitioner deprived of any

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procedural process. Likewise, we conclude that such a delay did not result in either an inaccuracy or injustice.

c. Absent anything to the contrary, and notwithstanding the documentation furnished with reference (a), the challenged report is viewed as a legitimate, objective appraisal of the petitioner's performance during the stated period. He was afforded every opportunity to sight and respond to the comments of both the Reporting Senior and Reviewing Officer (which he did).

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