



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

BJG
Docket No: 4891-01
10 April 2002

22

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 3 April 2002. 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 15 June 2001, a copy of which is attached. They also considered your rebuttal letter dated 26 June 2001.

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 were unable to find the reporting senior did not counsel you about perceived deficiencies, noting the reviewing officer said the reporting senior did counsel you on the "increased demands expected of [an] SNCO [staff noncommissioned officer]." In any event, they generally do not grant relief on the basis of an alleged absence of counseling, as counseling takes many forms, so the recipient may not recognize it as such when it is provided. They noted that the PERB report explained why comment by the third sighting officer was not required. 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

IN REPLY REFER TO:
1610
MMER/PERB
15 JUN 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 22 Mar 01
(b) MCO P1610.7D w/Ch 1-5
(c) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 13 June 2001 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 980307 to 980925 (CD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report was not written per the provisions of reference (c) and cites the paragraphs allegedly violated. Specifically, he argues that neither the Reviewing Officer nor the Third Sighting Officer resolved inconsistencies and disagreements as to matters of fact. Additionally, the petitioner states he was not supplied with new information placed in the fitness report, and that within a twelve day period he received two fitness reports that contradict each other. To support his appeal, the petitioner furnishes a copy of the challenged report, the report immediately following, an extract from the Marine Corps Total Force System (MCTFS) regarding leave, a statement from Staff Sergeant [REDACTED], and the Supply and Maintenance Analysis Report of 1 July 1998.

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. At the outset, the Board emphasizes the petitioner has cited the incorrect directive in attempting to establish his argument. As stated in paragraph one above, reference (b) governed the challenged fitness report, not reference (c) as the petitioner states.

b. The Board is not sure to what the petitioner is referring when he states the Reviewing and Third Sighting Officers did not resolve inconsistencies and factual disagreements. Lieutenant

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Colonel [REDACTED] (the Reviewing Officer) went into great detail to adjudicate and resolve the report, albeit finding in favor of the Reporting Senior's evaluation. Since there was nothing further to adjudicate, there was no requirement for the Third Sighting Officer to make any additional comments.

c. The petitioner's receipt of two dissimilar fitness reports within a twelve day period has no bearing on this case. The evaluations covered two separate reporting periods in different billets and were from two different Reporting Seniors.

d. Nowhere in reference (a) is there any indication as to what "new information" was placed in the fitness report. Based on the contents of his rebuttal, it certainly appears as though the petitioner saw the completed fitness report prior to responding. Finally, neither the statement from Staff Sergeant [REDACTED] nor the FSMAO report of 1 July 1998 cause the Board to question either the fairness or accuracy of the evaluation.

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