



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

SMC  
Docket No: 05117-01  
13 December 2001

[REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Staff Serg [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 13 December 2001. 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 21 June 2001, 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, except they noted that in addition to the third sighting officer's supporting letter acknowledged by the PERB, you also submitted a second supporting letter dated 1 March 1999. 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

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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  
21 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 4 Apr 01  
(b) MCO P1610.7D w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 20 June 2001 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970101 to 970613 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner objects to the comments made by the Third Sighting Officer (Brigadier General [REDACTED]) since the incident to which he refers occurred prior to his assumption of command. To support his appeal, the petitioner furnishes a letter from General [REDACTED] recommending that his comments be disregarded.

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. Regardless that General [REDACTED] was not present during the stated period, he was the proper Third Sighting Officer at the time the report was reviewed. Hence, his comments do not conflict with either the spirit or intent of reference (b). The comments were definitely adverse and the petitioner was given his rightful opportunity to acknowledge and respond. To this end, the Board discerns absolutely no error or injustice.

b. It appears as though the basis for General [REDACTED]'s recommendation to disregard his comments was the benefit of observing the petitioner for 17 months following the incident reflected in the challenged fitness report. This testament was furnished to the President of the FY02 Gunnery Sergeant

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Selection Board for their use in determining qualifications for advancement, not to the PERB or BCNR as a vehicle to recommend the total and complete elimination of the Third Sighting Officer comments. Even if that had been the case, the Board is haste to point out that General [REDACTED]'s comments were based on performance at the time, not on what the petitioner accomplished after the fact.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the Third Officer Sighting comments included in the contested fitness report should remain a part of Staff Sergeant [REDACTED]'s 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