



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

SMC  
Docket No: 07267-01  
16 August 2001

GYSGT [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Gunnery 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 16 August 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 23 October 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. 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

7267-01  
IN REPLY REFER TO:  
1610  
MMER/PERB  
23 OCT 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  
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt. [REDACTED] DD Form 149 of 12 Jun 00  
(b) MCO P1610.7D w/Ch 1-4  
(c) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 October 2000 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 970901 to 971121 (TR) -- Reference (b) applies
- b. Report B - 981001 to 990618 (CH) -- Reference (c) applies

2. The petitioner contends that proper procedures were not followed concerning the adversity of the challenged fitness reports. He argues that he was never seen by a certified health care provider prior to receiving the two fitness reports at issue and that he was never assigned to the Weight Control Program. To support his appeal, the petitioner furnishes letters from CWO-4 [REDACTED] and CWO-4 [REDACTED] and other items of documentation which he believes to be pertinent.

3. In its proceeding, the PERB concluded that both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Evidently both the petitioner and the Reporting Seniors for both reports have misunderstood the criteria contained in references (b) and (c) concerning weight issues. To be placed on weight control, the Marine reported on needs to be seen by a health care provider. If the individual is overweight and over the established body fat percentage, the Reporting Senior can record the weight on the report, and it will be considered "adverse." If a certified health care provider states there is an underlying or associated disease which causes the Marine to be overweight, then it is not "adverse."

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b. The advocacy letters furnished [REDACTED] and CWO-4 [REDACTED] do not invalidate either report. Succinctly stated, both officers clearly acknowledge that the petitioner was overweight and over the body fat percentage. Their failure of leadership responsibilities to have the command place the petitioner on a formal weight control program does not technically overturn or erase the truth of the petitioner's weight problems.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports should remain a part of Gunnery 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