



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

SMC
Docket No: 07849-00
23 February 2001

SSGT [REDACTED] USMC
[REDACTED]
[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 23 February 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 8 November 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. The Board found that plagiarism can be considered to be "unprofessional conduct," and therefore is a valid basis for disenrollment from the Staff Noncommissioned Officer Academy (SNCOA). They found paragraph 3 of the disenrollment letter dated 4 January 2000, stating you are encouraged to attend one of the other academies "When the deficiency is resolved," did not contradict your disenrollment from the SNCOA for plagiarism. 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
8 NOV 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], [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 18 Aug 00
(b) MCO P1610.11C w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 7 November 2000 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 991018 to 991124 (FD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is inaccurate, unjust, and contains procedural errors. He argues that he did not cheat nor plagiarize the work of another student while at the Staff Noncommissioned Officers Academy (SNCO Academy), and that his disenrollment was unwarranted. Additionally, the petitioner alleges that comments in Section I were changed, that the report was not processed in a timely manner, and he was not afforded an opportunity to comment on the additional adverse matter introduced by the Reviewing Officer. To support his appeal, the petitioner furnishes his own detailed statement and documentation pertaining to the reporting period.

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 that the officials at the SNCO Academy were the ones charged with the responsibility to determine the existence of any improprieties. It was their conclusion--as those having firsthand knowledge of the situation--that the petitioner had copied the work of another student. In this regard, the Board notes that nothing was included in the report concerning the work of a student from a prior class, but that the petitioner's work matched that of one of his classmates. The modification of this information from the prior edition of the fitness report for this period would explain the revision (i.e., to ensure accurate reporting).

(3) PERB

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SERGEANT [REDACTED] SMC

b. While neither this Headquarters nor the PERB condone the late submission of fitness reports, that single factor does not serve to invalidate an otherwise administratively and procedurally acceptable performance appraisal. A revision to the report to guarantee accurate recording of the facts explains the delay.

c. The Board observes that Sergeant Major [REDACTED] (the Reviewing Officer) did not, as the petitioner argues, add additional or new adverse matter. Rather, he clarified and resolved the issues surfaced by the petitioner, albeit in favor of the Reporting Senior. Likewise, Colonel [REDACTED] (the Adverse Sighting Officer) confirmed that established procedures were followed. Finally, and notwithstanding the petitioner's arguments and assertions, the Board discerns absolutely no error, injustice, or inaccuracy.

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