



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

Am

BJG
Docket No: 8257-01
5 December 2001

SSGT [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 5 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 1 November 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. Concerning the contested fitness report for 1 July to 8 September 1998, they did not agree with your statement that you were marked "EX" (excellent) in all areas marked "OS" (outstanding) in the uncontested report for 1 January to 15 April 1998. In fact, the contested report marked you "OS" in eight of the areas marked "OS" in the previous report: "regular duties," "administrative duties," "personal appearance," "cooperation," "leadership," "loyalty," "personal relations," and "growth potential." Further, the contested report marked you "OS" in "additional duties," in which the prior report had marked you "NO" (not observed); and the contested report marked you "EX" to "OS" in "general value to the service," in which the prior report had marked you "OS." 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
1 NOV 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] [REDACTED] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 7 Aug 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 31 October 2001 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 980701 to 980908 (TR) - Reference (b) applies
- b. Report B - 981001 to 990930 (CD) - Reference (c) applies

2. The petitioner believes there are several marks on both reports that are in contradiction with the respective narrative comments. He also points out that the fitness reports he received prior to going to the Staff Noncommissioned Officers Academy (SNCOA) contained marks of "outstanding" where they are now "excellent" in Report A. To support his appeal, the petitioner furnishes his own statement.

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

a. Contrary to the petitioner's arguments, the Board discerns absolutely no inconsistency in either Report A or Report B. That the petitioner believes he should have received higher marks is viewed as simply his opinion of his level of performance versus that of the Reporting Seniors. Likewise, we find nothing in reference (a) that documents precisely how or why he should have received higher marks. In this regard, the Board finds the petitioner has failed to meet the burden of proof necessary to establish the existence of an error or an injustice.

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b. While the petitioner's fitness report for the period 980101 to 980415 reflected higher Section B marks than what is contained on Report A, the Board is haste to point out that two different Reporting Seniors were involved [REDACTED] and 1stLt [REDACTED]. Additionally, each evaluation chronicles performance during a finite period and one is simply not dependent on the other.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports 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