



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 6262-00
12 January 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.

You impliedly requested removing your adverse fitness report for 1 March to 6 May 1995. You also requested correction of your Marine Corps Total Force System (MCTFS) data by removing the draw case codes "AU" (substandard performance letter), "BF" (serving on a former observation contract), and "AW" (once failed of selection for promotion). As shown in the attached memorandum dated 10 January 2001 from the Headquarters Marine Corps (HQMC) Field Support Branch, Manpower Management Information System Division (MI), they agreed to take action to correct your MCTFS data by removing the "AU" draw case code, as your Official Military Personnel File reflects no letter of substandard performance. The attached memorandum for the record dated 12 January 2001 reflects that this code has been removed.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 January 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 HQMC Performance Evaluation Review Board (PERB), dated 8 December 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 in finding that the contested fitness report should stand. Since they found no defect in your performance record, they had no basis to remove the draw case codes "BF" or "AW." In view of the above, your application for relief beyond that effected

by HQMC 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

Enclosures

6262-00



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1070

MI

10 JAN 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED] USMC

Ref: (a) Telephone conversation [REDACTED], BCNR on 8Jan01

1. Per the reference, a review of Staff Sergeant [REDACTED] OMPF was completed on 9 January 2001 in an attempt to locate a poor performance letter to support a Draw Case Code: AU in his MCTFS records.

2. It has been determined that this code was erroneously reported in the MCTFS based upon lack of substantiating documentation, a poor performance letter. Accordingly, corrective action will be administered by this Office to remove this code from the MCTFS.

3. Point of contact is Mr. [REDACTED]

[REDACTED]

Head, Field Support Branch,
Manpower Management
Information System Division

12 January 2001

MEMO FOR THE RECORD

Re: SS [REDACTED] SMC [REDACTED]

[REDACTED] QMC Code MI called today to advise th [REDACTED] "AU" draw
case code had been removed from the MCTFS data.

[REDACTED]

Head, Performance Section



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6262-00

IN REPLY REFER TO:
1610
MMER/PERB
8 DEC 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
[REDACTED] SMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 6 Sep 00
(b) MCO P1610.7D

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 6 December 2000 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 950301 to 950506 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner explains the circumstances surrounding the issue which caused the report to be adverse (i.e., "financial mismanagement"). The petitioner questioned incorporating the challenged information in the fitness report since, after explaining the incident to the Commanding Officer, he opted to forego nonjudicial punishment (NJP).

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. The petitioner's case includes no qualifying documents or statements to support his case. The Page 11 and Page 12 Service Record Book (SRB) extracts only confirm that the petitioner was not the recipient of NJP.

b. While the petitioner attempts to minimize the nature and extent of his financial problems, his letter furnished with reference (a) clearly indicates he knew the nature of those problems and his command's responsibility to report them via the performance evaluation system. In this regard, the Board emphasizes that the decision to refer a particular incident of misconduct (to include financial mismanagement) to NJP rests solely with the Commanding Officer. At the same time, misconduct that does not rise to the level of disciplinary action may still warrant comment in a fitness report.

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] USMC

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.



Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps