



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

BJG
Docket No: 6988-01
11 January 2002

MSGT E [REDACTED] S/R USMC

Dear Master 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 10 January 2002. 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 4 September 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.

The Board was unable to find the reporting senior did not fulfill his responsibilities. In this regard, they noted the reviewing officer reviewing officer explains that the contested fitness report was delayed at his own direction until after a major exercise, to ensure the report would receive the reporting senior's full attention. They were likewise unable to find the reviewing officer failed in his responsibility to ensure the reporting senior complied with the applicable fitness report order. They could not find the reviewing officer erred by stating he counseled you, notwithstanding your belief that the meeting you admit he set up for you and the reporting senior was not a form of counseling. They were unable to find that the reporting senior used your fitness report as a lever to influence you, even if you are correct that he stated to you, at a public function in the presence of his peers, that you were working for him and that he wrote your fitness report. Finally, they found no reference, in the report at issue, to your nonpunitive letter of reprimand.

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

69866-01
IN REPLY REFER TO:
1610
MMER/PERB
4 SEP 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
MASTER SERGEANT [REDACTED] USMC

Ref: (a) MSGt [REDACTED] Form 149 of 23 May 01
(b) MCO P1610.7E w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 29 August 2001 to consider Master Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 991018 to 000229 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the Reviewing Officer failed to mentor and communicate with the Reporting Senior to ensure compliance with reference (b). He also denies any type of counseling and indicates the Reporting Senior never provided guidance, nor did he furnish performance standards or direction in running the current Operations Section. The petitioner objects to the Reviewing Officer's inclusion of additional adverse information and states he was not privy to either sight or acknowledge that officer's comments. To support his appeal, the petitioner furnishes his own statement.

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. Notwithstanding the petitioner's detailed statement included with reference (a), the Board finds nothing substantive to prove the petitioner did not receive some type of performance feedback during the stated period, or that he was not provided any counsel or guidance. In this regard, the Board stresses that counseling can and does take many styles and forms, some of which may not be readily apparent to the recipient. Certainly the inherent relationship between the petitioner (G-2 Current Operations Chief) and the Reporting Senior (G-2 Current Operations Officer) would have ensured some type of on-going dialog during this four-month reporting period. Additionally,

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and more significant, are the comments by both the Reporting Senior and Reviewing Officer concerning the petitioner's disregard of the Reporting Senior's directions and counseling in the presence of the Reporting Senior, the Reviewing Officer, and the G-2 Chief.

b. Contrary to the petitioner's argument, the Board finds no new or additional adverse material in the Reviewing Officer's comments. Rather, he resolved the issues surfaced by the petitioner, albeit in favor of the Reporting Senior. Consequently, the petitioner was correctly not afforded an opportunity to sight, sign, and respond to [REDACTED]'s remarks.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Master Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

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