



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

m

BJG
Docket No: 8880-02
7 November 2002

SSGT [REDACTED] USMC
[REDACTED] MCAS
[REDACTED]

Dear [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 7 November 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 3 October 2002, 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. Accordingly, 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

8440-02

IN REPLY REFER TO:

1610
MMER/PERB
OCT 03 2002

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] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 28 Nov 01
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 2 October 2002 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Changes to several marks in Sections D, E, F, and G of his fitness report for the period 010602 to 010912 (CH) were requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner provides a letter from the Reporting Senior of record [REDACTED] herein that officer states corrections were to be made to the fitness report prior to it being forwarded to this Headquarters. It is [REDACTED] position that the report was submitted, without the noted corrections, while he was executing temporary additional duty orders.

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. Lacking substantive evidence to the contrary, and not withstanding [REDACTED] statement, the Board must presume that when the Reporting Senior affixed his signature to Item J1 of the report, all entries were correct. In this regard, a member of the Board's staff contacted the Reviewing Officer [REDACTED] to discuss the situation. [REDACTED] was emphatic concerning his policy regarding his Reviewing Officer responsibilities and stated that he not only discusses the report and markings with Reporting Senior, but also speaks with Marine reported on relative to the assessment and comments in Section [REDACTED] said the challenged fitness report was treated no differently and that he spoke with both [REDACTED] and the petitioner on the contents of the report.

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

b. There is no merit to the Reporting Senior's request to change the beginning date of the report to "~~010912~~" (vice ~~010602~~) ^{→ 29 June 2001} (vice ~~010602~~) [Ⓟ]). In reviewing the petitioner's Master Brief Sheet and previous fitness report (TR, 010101-010601), it is clear the dates are correct. What [REDACTED] did not account for was the period of nonavailability from when the petitioner left his previous command. That period (010602-010612) was neither identified nor required to be identified since it was less than 30 days.

c. It is the position of the PERB that to justify the deletion or amendment of a fitness report, evidence of probable error or injustice should be produced. Such is not the situation in this case.

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