



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

BJG
Docket No: 2427-03
17 April 2003

SSGT [REDACTED] CMC

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.

It is noted that the Commandant of the Marine Corps (CMC) has directed that the beginning date of the contested fitness report for 16 July 2001 to 17 January 2002 be changed to 30 September 2001, and further directed that the contested report for 16 July to 29 September 2001 be amended by deleting the following sentence from section I: "MRO [Marine reported on] needs to maintain composure, tempered with judgement, when faced with leadership challenges."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 April 2003. 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 18 March 2003, 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 for relief beyond that effected by CMC 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

2427-03

IN REPLY REFER TO:
1610
MMER/PERB
MAR 18 2003

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) SS [REDACTED] DD Form 149 of 5 Nov 02
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 12 March 2003 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 010716 to 020117 (TR)
- b. Report B - 010716 to 010929 (FD)

Reference (b) is the performance evaluation directive governing the submission of both reports.

2. The petitioner argues that the statements in Report A conflict with those contained in Report B. He also points out that during the period covered by Report B he never received a 6105 counseling entry or any derogatory material such as that reflected in Report A. Finally, the petitioner believes that Item 3b ("From" date) on Report A is in error. To support his appeal, the petitioner furnishes copies of the reports at issue and copies of page 11 entries from his Service Record Book (SRB).

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

a. The appraisal statements on Report A do not, as the petitioner alleges, conflict with the verbiage in Section I on Report B. Even if that were the case, the reports were written by different Reporting Seniors and cover different periods of duty. The petitioner is correct in identifying that Report A incorrectly overlaps the period covered by Report B; however,

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the Board does not find this to be invalidate the report. Instead, the Board has directed that Item 3b of Report A be changed to "20010930."

b. The petitioner's argument relative to Report B, concerning non-receipt of a 6105 entry (or other derogatory material) as indicated on Report A, is not germane. Both page 11 entries took place during the period covered by Report A and are appropriately recorded in that appraisal.

c. Although the petitioner does not surface it in reference (a), Section I of Report B contains "adverse" comments and appears contrary to the overall evaluation. Since that report has not been before any selection/promotion board, and the petitioner has apparently not suffered any injustice by its presence in his performance record, the Board has opted to direct removal of the objectionable comments. They are: "MRO needs to maintain composure, tempered with judgement, when faced with leadership challenges."

4. The Board's opinion, based on deliberation and secret ballot vote, is that the modified versions of the contested fitness reports should remain a part of Staff Sergeant [REDACTED] official military record. The limited corrective actions identified in subparagraphs 3a and 3c are considered sufficient.

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