



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

BJG  
Docket No: 2430-03  
17 April 2003

SSGT [REDACTED] SMC  
[REDACTED]

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.

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 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

2476-03

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) SSgt [REDACTED] DD Form 149 of 30 Dec 02  
(b) MCO P1610.7E

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 fitness report for the period 990101 to 990331 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner alleges the report creates a substantive injustice to his record and bases his argument on the fact that the Reporting Senior and Reviewing Officer disagreed on the evaluation. He also points out that the Reporting Senior was eventually relieved of his duties. To support his appeal, the petitioner furnishes letters from the Reviewing Officer/Squadron Commander (Lieutenant Colonel [REDACTED] and the Executive Officer [REDACTED]).

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. At the outset, the Board advises that it has some concerns with Lieutenant Colonel [REDACTED] letter and the facts he describes. As he points out, he had been the petitioner's Reviewing Officer/Commanding Officer for quite some time prior to him reviewing the challenged fitness report. In fact, three prior performance evaluations list Lieutenant Colonel [REDACTED] as the Reviewing Officer. As he also points out, he knew the petitioner quite well and had ample opportunity to observe him during the reporting period. Second, Lieutenant Colonel [REDACTED] statement about his reliance on Captain [REDACTED] biased input is problematic since a review of Captain [REDACTED] own record contains no mention of him being relieved. In fact,

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just after this period, Capt [REDACTED] received a change of Reporting Senior (CH) report from the Group Commander, Colonel [REDACTED] who had assumed Reporting Senior duties following Lieutenant Colonel [REDACTED] relief (Section I comment on Captain [REDACTED] fitness report for the period 990101 to 990515 (CH)). Nowhere in Captain [REDACTED] "CH" report is there any mention of poor judgment or a relief. Once Lieutenant Colonel [REDACTED] relinquished command, the Squadron Executive Officer (Major [REDACTED] assumed duties as the Commanding Officer and later wrote a transfer (TR) report on Captain [REDACTED]. Again, there is no mention of any relief or poor judgment (Captain [REDACTED] fitness report for the period 990516 to 990706).

NOTE: Owing to the provisions of the Privacy Act, copies of Captain [REDACTED] fitness reports have not been included. They are, however, available for reviewing in the PERB office by a member of the BCNR staff.

b. When Lieutenant Colonel [REDACTED] completed Section K on the fitness report at issue, he had known the petitioner for over a year. None of the facts indicate that Captain [REDACTED] pressured Lieutenant Colonel [REDACTED] into unfairly evaluating the petitioner. Rather, Lieutenant Colonel [REDACTED] had enough personal knowledge of the petitioner to furnish his own assessment and comments (Sections K3 and K4, respectively).

c. The Board observes that Lieutenant Colonel [REDACTED] has now been the Reviewing Officer on a total of eleven reports for Marines in the grade of Staff Sergeant. Of those eleven reports, six (including the petitioner) were marked in the same block in Section K3. The Board believes this begs the question that if Lieutenant Colonel [REDACTED] relied so heavily on Captain [REDACTED] input, why have the majority of other Staff Sergeants been marked the same.

d. [REDACTED] fails to provide any evidence of a biased or unfair evaluation by either reporting official. First, she states that she reviewed Capt [REDACTED] evaluation and recommended he rewrite his Section I comments because they bordered on being adverse. Apparently [REDACTED] followed that advice because there is nothing even remotely averse in the

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Section I comments (mandatory Section I word picture was not required at this time).

e. Although [REDACTED] provides her own glowing appraisal of the petitioner's performance during the reporting period, she fails to furnish any evidence as to how Captain [REDACTED] is biased. Simply because she may have rated the petitioner higher does not somehow prove that a bias existed. Finally Major [REDACTED] attributes to the Reviewing Officer's unfamiliarity with the new Performance Evaluation System and his resulting hesitancy in nonconcurring with Captain [REDACTED]. Simply stated, Lieutenant Colonel [REDACTED] is evidently not that hesitant since he clearly stated his nonconcurrency with respect to two of the marks assigned by Captain [REDACTED].

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.

[REDACTED]

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