



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

22

BJG  
Docket No: 4360-03  
17 September 2003

[REDACTED] USMC  
[REDACTED]  
[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 11 September 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 19 May 2003, a copy of which is attached. The Board also considered your rebuttal letter dated 30 July 2003 with enclosures.

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 that efforts were not made to determine if you had an underlying problem before the facts concerning your height, weight, and body composition were entered in the contested fitness report. Your having later achieved compliance with weight/body composition standards suggests you had no underlying problem, and that you did not need to be assigned to weight control. Finally, the Board found it was proper for the Staff Noncommissioned Officer Academy, having found you were a student not in compliance with standards, to disenroll you and return you to your parent unit to deal with this issue as appropriate. 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

IN REPLY REFER TO:  
1610  
MMER/PERB  
MAY 19 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] JSMC

Ref: (a) SSgt [REDACTED] Form 149 of 31 Jan 03  
(b) MCO P1610.7E w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 15 May 2003 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 000131 to 000310 (FD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report should never have been submitted and represents a substantive injustice to his record. Specifically, the petitioner details the circumstances surrounding his recorded failure to meet the established Marine Corps standards for height, weight, and body fat percentage. To support his appeal, the petitioner provides 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. At the outset, the Board emphasizes that when the petitioner acknowledged the adverse nature of the report (evidence his signature in Item J2), he opted to omit any statement in his own behalf. In so doing, he passively concurred in the overall accuracy of the evaluation without presenting any mitigating or extenuating circumstances. What is of paramount importance in this regard, is that the petitioner fully acknowledges that a Master Sergeant [REDACTED] was emphatic that he respond to the report. For whatever reason, the petitioner disregarded that advice. Now, more than three years after the fact, the petitioner argues that the report is unfair. Succinctly stated, whatever concerns he had with the report should have been surfaced when he signed Item J2, and when all

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parties concerned were available to resolve any factual  
disparities.

b. The argument levied by the petitioner concerning  
evaluation by an Appropriately Credentialed Health Care Provider  
(ACHCP) pertains to those Marines being processed for assignment  
to the Weight Control Program. Such an evaluation is not  
required prior to entering **factual information** into the fitness  
report (i.e., height, weight, body fat percentage).

c. Since the Marine Corps places great emphasis on  
maintaining proper height/weight/body fat ratio, the Board finds  
it difficult to comprehend the petitioner's statement that he  
was never counseled on any repercussions of being overweight.  
At the time of the report, the petitioner had been in the Marine  
Corps for over ten years and a Staff Sergeant for over a year.  
Nevertheless, it was standard policy at the Staff Non-  
commissioned Officers Academy during this time, to allow Marines  
who were close to their maximum weight to continue the course.  
Obviously, the petitioner was allowed to do so. However, it was  
also understood that Marines would be required to be within  
standards prior to graduation. Not withstanding the foregoing,  
the petitioner furnishes nothing to show that the report under  
consideration is not factually accurate.

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