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

BJG

Docket No: 2207-08

26 June 2008

[REDACTED]

[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 26 June 2008. 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 March 2008, 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, VA 22134-5103

IN REPLY REFER TO:

1610
MMER/PERB
MAR 03 2008

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
[REDACTED]

Ref: [REDACTED] DD Form 149 of 1 Nov 07
(b) MCO P1610.7E w/ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 23 January 2008 to consider [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 20021207 to 20030119 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner requests the removal of an adverse fitness report that he received for being subject to nonjudicial punishment (NJP). He has not provided any supporting documents.

3. In its proceedings, the Board concluded that the appealed report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. The petitioner argues that there is no record anywhere in his Official Military Personnel File (OMPF) or his service record book (SRB) that documents the NJP, and therefore this fitness report should be removed. The command's failure to properly document and report the NJP is in error, however, it has no bearing on this fitness report. The Board found that the lack of documentation elsewhere in the petitioner's record, does not establish a basis for removing the fitness report which does properly document the NJP.

b. The Board also found that in his rebuttal, the petitioner accepted full responsibility for his actions that led to the NJP. By his own admission, he was clearly guilty of the offense, thus rendering the report accurate.