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

JSR
Docket No: 6295-08
28 August 2008

[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.

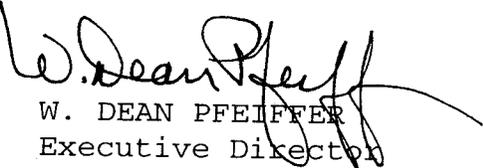
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 August 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 26 June 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

JUN 26 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: (a) [REDACTED] DD Form 149 of 22 Feb 08
(b) MCO P1610.7F

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 11 June 2008 to consider [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 20070320 to 20070501 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.
2. The petitioner received this adverse fitness report because he received a derogatory page 11 entry for providing alcohol to a Marine under the age of 21, and attempting to influence a junior Marine to deny the fact that she attended a party at the petitioner's residence. He argues that he never received a page 11 nor was he counseled. In support of the petitioner's appeal, he submitted copies of Service Record Book (SRB) and Official Military Personnel File (OMPF) pages.
3. In its proceedings, the Board concluded that the report is administratively correct and procedurally complete as written and filed. The following is offered as relevant:
 - a. The Board found that this report is an accurate recording of the petitioner's unsatisfactory behavior. The petitioner does not deny his behavior, but merely that no page 11 entry exists. However, he acknowledges the existence of the entry in his appeal. The petitioner states that the fitness report was adverse for, "a page 11 that I have never received and was not completed until October 2007". By mentioning its completion date, clearly he was aware of the entry.

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b. The Board also notes that the petitioner failed to acknowledge or rebut this report. Had he done so, his concerns about the page 11 entry could have been addressed and adjudicated by the reporting officials who were in the best position to do so.

5. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report covering the period [REDACTED] to 20070501 (TR), should remain [REDACTED] official military record.

6. The case is forwarded for final action.



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