



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

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JSR
Docket No: 7980-08
17 October 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.

You requested removing the fitness report for 1 January to 31 December 2005 and the service record page 11 ("Administrative Remarks (1070)") entry dated 13 January 2006 together with your rebuttal dated 20 January 2006.

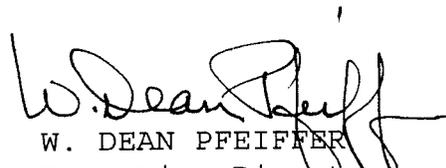
It is noted that the Commandant of the Marine Corps (CMC) has directed removing the contested fitness report.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 October 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 (HQMC) Performance Evaluation Review Board (PERB) dated 6 August 2008, the e-mail from the HQMC Performance Evaluation Review Branch dated 21 August 2008, and the advisory opinion from the HQMC Manpower Information Operations, Manpower Management Information Systems Division dated 8 September 2008, copies of which are attached. The Board also considered your letter dated 4 October 2008 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 advisory opinion from MIO in concluding the contested page 11 entry should stand. If you are correct that the latest incident on which the entry was based occurred in December 2005, the Board found the issuance of the entry on 13 January 2006 would be reasonably prompt. Concerning the reviewing officer's statement, in the uncontested fitness report for 1 January to 8 October 2006, that his daily observation of you and the reporting senior (RS) (the same civilian who was the RS on the contested preceding report) "indicates an existing personality conflict from a prior reporting period," the Board noted that the page 11 entry was not from the RS, but from your commanding officer. In view of the above, 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, VA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
AUG 06 2008

From: Commandant of the Marine Corps
To: [REDACTED]

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) Your DD Form 149 of 8 May 08
(b) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your naval record. Having reviewed all the facts of record, the Board has directed that your naval record will be corrected by removing the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
16 January 2006	[REDACTED]	20050101 to 20051231 (AN)

2. There will be inserted in your naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events that may have precipitated it, unless such events are otherwise properly a part of the official record. The PES (the data base which generates your Master Brief Sheet) will be corrected accordingly.

[REDACTED]
By direction



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

1070

MIO

SEP 8 2008

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

[REDACTED] application with supporting documents concerning his request for removal of the Administrative Remarks (1070) page 11 entry dated 13 Jan 06 from his service records has been reviewed.

2. MCO P1070.12K, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book (SRB) or the Marine's automated record, and which will be useful to future commanders. One of the many leadership tools that a commander has at their disposal is counseling and rehabilitation for their Marines. Paragraph 6105 of MCO P1900.16, The Marine Corps Separation Manual (MARCORSEPMAN), sets forth policy pertaining to counseling and rehabilitation. NAVMC 2795, the USMC User's Guide to Counseling, establishes a more effective means of communication and understanding between senior and junior to continually strive to improve Marine Corps readiness. The objectives for the Counseling Program are as follows:

a. To maintain counseling as an integral and continuous part of traditional Marine Corps leadership.

b. To develop counseling skills through a continuing education program that teaches the importance of daily coaching and provides the tools to conduct effective counseling.

c. To increase individual performance and productivity through counseling, and thereby increase unit readiness and effectiveness.

d. To enhance the leader's ability to improve the junior's performance.

e. Create the ethic of effective counseling in a climate of solid leadership, and provide a system to enhance the ethic.

Subj: BCNR APPLICATION IN THE [REDACTED]

3. The following comments/opinions are provided.

a. The counseling entry meets the elements of a proper page 11 counseling as it lists deficiencies, recommendations for corrective action, available assistance, and states that [REDACTED] as provided the opportunity to make a rebuttal statement. Additionally, he was afforded an opportunity to annotate whether or not he chose to make such a statement and if made, a copy of the statement would be filed in his service records. [REDACTED] acknowledged the counseling entry by his signature and further chose "to" make a statement in rebuttal.

[REDACTED] claim that the counseling entry is erroneous and an injustice was committed because "It was clearly that they had personal issue not professional." is irrelevant and not supported by NAVMC 2795. The deficiencies listed were in the judgment of his commander, lack of basic fundamentals in Marine Corps Leadership, concerning his professional conduct as a staff non-commissioned officer. If an individual fails to meet the level of conduct expected of their billet and grade, it is the responsibility of the commander to counsel that individual on those deficiencies. Furthermore, [REDACTED] states in his rebuttal statement he accepts full responsibility for his behavior.

[REDACTED] was counseled for his conduct not meeting the level expected of a staff non-commissioned officer. He also received an adverse fitness report which has subsequently been removed from his service records. The policy governing fitness reports and page 11 entries are totally different and has no effect on the other. As stated in paragraph 2 above, counseling is a leadership tool commanders have to assist their Marines who have a deficiency either in their conduct or performance. In view of the above, it is recommended that the Board for Correction of Naval Records disapprove [REDACTED] request for removal of the Administrative Remarks (1070) page 11 entry dated 13 Jan 06 from his service records. If the Board for Correction of Naval Records finds that [REDACTED] records are in error or an injustice was committed, approve his request. Point of contact is [REDACTED] at DSN 278-9765.

[REDACTED]
Manpower Information Operations,
Manpower Management Information
Systems Division