



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

BJG
Docket No: 12147-09
12 March 2010

[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 completely removing the fitness report for 2 June to 24 September 2007.

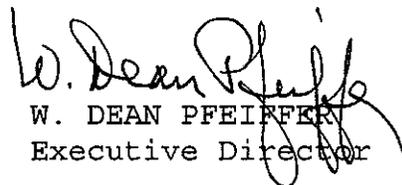
It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the contested report by amending section I (reporting senior's "Directed and Additional Comments") to state you were assigned to the Body Composition Program on 7 August 2007, rather than 12 July 2007.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 March 2010. 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 16 November 2009, 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 report of the PERB. Accordingly, 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

NOV 05 2009

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 9 Jul 09
(b) MCO P1610.7F

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 16 September 2009 to consider [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 20070701 to 20080526 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that this fitness report should be removed from his Official Military Personnel File (OMPF) because the Reporting Senior marks are lower than those of his previous report from the same Reporting Senior, and that he was not counseled about the reduced marks. He further argues that the marks are inconsistent with the Section "I" comments. The petitioner did not submit any supporting documents with this appeal.

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 petitioner argues that the Reporting Senior did not justify a drop in marks; however, the petitioner has not provided any justification that they should not have been lowered. The burden of proof rests with the petitioner to prove that the report is incorrect or unjust, and the Board concluded that he has failed to do so.

b. The purpose of Section "I" comments is to record directed comments and additional comments as applicable, and to portray the "whole Marine" that may not be apparent in the billet accomplishments or attribute grades. Section "I" is not intended

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[REDACTED]

for justifying attribute grades. Regardless, the Board concluded that there is nothing about the Reporting Senior's comments that contradict the markings.

c. Understandably, the petitioner is disappointed because the marks are lower than his previous report, but the marks themselves are favorable and do not represent a significant decline in the petitioner's performance, especially when viewed in context of the remainder of this favorable evaluation. Each report is an evaluation of the petitioner's performance for that reporting period only. It is quite common for a Marine's performance to fluctuate over time.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of [REDACTED]'s official military record.

5. 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