



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

SMC
Docket No: 05917-98
29 April 1999

SGT [REDACTED] USMC

Dear 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 29 April 1999. 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 5 August 1998, 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

5917-98



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, D.C. 20380-1775

IN REPLY REFER TO:
1610
MMER/PERB
5 Aug 98

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
SERGEANT [REDACTED] USMC

Ref: (a) Sergeant [REDACTED]'s DD Form 149 of 15 Jul 98
(b) MCO P1610.7D

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 4 August 1998 to consider Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 960203 to 960213 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner's contention is that he believes the report is unjust in that it covers a 11-day period and the Reporting Senior did not have sufficient time to observe his performance.

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. The Board does not agree with the petitioner's argument that Major [REDACTED] did not have sufficient time to observe his performance. In this regard, the Board observes that prior to attending the four-week Sergeant's Course, Major [REDACTED] completed a three-month evaluation of the petitioner in the same billet ("Directives Chief"). Consequently, he had knowledge of the petitioner's mission accomplishment/capabilities. In this regard, we discern absolutely no error or injustice relative to the short reporting period.

b. What serves to further substantiate/justify an observed fitness report for this 11-day period is the adverse information concerning the petitioner's lack of initiative/judgment regarding a personal issue which affected his primary duties. The board notes that in his rebuttal statement the petitioner accepted responsibility for his actions and acknowledged his mistake.

c. As a final issue, reference (a) contains absolutely no documentary evidence to prove the petitioner's allegation that he

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was held accountable for his Section's poor performance during his absence. Likewise, we find nothing to show precisely how the petitioner may have rated more than what has been recorded.

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