



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

SMC
Docket No: 07213-98
16 April 1999

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff 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. You requested removal of a fitness report for 15 July to 31 December 1995.

It is noted that the Commandant of the Marine Corps (CMC) has modified the contested report by changing the mark in item 14a ("endurance") from "above average" to "not observed."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 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 October 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 warranting removal of the complete contested report. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. 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, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
5 Oct 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 STAFF
SERGEANT [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 9 Jul 98
(b) MCO P1610.7D

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 30 September 1998 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 950715 to 951231 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is unjust due to the "above average" mark in Item 14a (endurance). To support his appeal, the petitioner furnishes his own statement, copies of other fitness reports, and a letter from the Reporting Senior of record, Captain [REDACTED].

3. In its proceedings, the PERB concluded that:

a. Based on the statement from Captain [REDACTED], the PERB is thoroughly convinced that the mark of "above average" in Item 14a was based entirely on the petitioner's low physical fitness test (PFT) score.

b. Unfortunately, the Reporting Senior continues to misinterpret the basis for assigning an observed mark in Item 14a. Justification for such a mark **is not**, as he infers, PFT results. To this end, the Board does not agree that the mark should be elevated to ". . . at least excellent maybe outstanding" (last sentence in paragraph three of Captain [REDACTED] letter of 1 Jul 98). Instead, the Board has directed the mark in Item 14a to be changed to "not observed." They do not agree that the entire report is suspect and should be eliminated.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as modified, should remain a part of Staff Sergeant [REDACTED]'s official military record. The limited corrective action identified in subparagraph 3b is considered sufficient.

(3) PERB

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SERGEANT [REDACTED] USMC

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