



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

BJG
Docket No: 1555-99
19 April 1999

SSGT [REDACTED] USMC

Dear Staff Sergeant [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, 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 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 3 March 1999, 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. They noted that since item 13b ("additional duties") of the contested fitness report was marked "not observed," your reporting senior was not required to identify any additional duties you may have had. Finally, the Board was not persuaded that the report placed undue emphasis on your performance as an instructor. In view of the above, 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

1555-99



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

IN REPLY REFER TO:
1610
MMER/PERB
MAR 3 1999

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 28 Dec 98
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 26 February 1999 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 931231 to 940920 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is an inaccurate portrayal of his performance and contains incorrect, inaccurate, and unjustified statements. It is his position that the descriptive title (Item 4a) is incorrect and should have reflected his performance as the "LAV Supply Coordinator" -- a billet he filled for approximately eight of the nine months covered by the evaluation. He also challenges the consistency of the report and believes that certain statements in Section C contradict some of the assigned ratings in Section B. As a final matter, the petitioner argues that the report was actually based on less than a month of instructor duty and was not a fair assessment. To support his appeal, the petitioner furnishes copies of Course Completion Certificates, Instructor Evaluations, Instructional Rating Forms, and four advocacy letters.

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. At the outset, the Board stresses that the disagreements which the petitioner surfaces in reference (a) are the same basic arguments raised in his official rebuttal statement. At the time the report was reviewed by Lieutenant Colonel [REDACTED] those disagreements were addressed and resolved, albeit in favor of the Reporting Senior's overall evaluation. We do note, however, that Lieutenant Colonel [REDACTED] opined that the mark in Item 14f (force) should reflect a mark of "excellent" vice "above average."

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b. Contrary to the petitioner's beliefs, the Board discerns absolutely no inconsistency between any of the marks assigned in Section B and the narrative comments in Section C. Likewise, we find that the information contained in Item 4a corresponds with the specific Table of Organization/Line Number information. Again, that issue was commented on and adjudicated by Lieutenant Colonel [REDACTED]

c. While the letters furnished with reference (a) are an attempt to support the petitioner's arguments, the Board notes that all four address his weakness as an instructor. That is precisely what the challenged report documents.

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