



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

SMC
Docket No: 01967-99
22 July 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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 July 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 18 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.

The Board noted that the reporting senior does appear to contradict himself by referring to you as both an "Excellent" and an "outstanding" candidate for promotion. However, they did not consider this to be a material matter warranting removal or correction of the contested fitness report. In light of the reporting senior's comment that you were "An overall excellent Marine," they considered any inconsistency in his having marked you "OS" (outstanding) in item 15a ("general value to the service") and having described you as an "outstanding" candidate for promotion was to your advantage. 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

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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 CORP.
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

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IN REPLY REFER TO:
1610
MMER/PERB
MAR 18 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] D Form 149 of 20 Nov 98
(b) MCO P1610.7D

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 16 March 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 960101 to 960315 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner takes exception with two marks of "excellent" in Section B (Items 13f-training personnel and 14m-personal relations), and believes they are inconsistent with the narrative comments in Section C. He also argues that the statement that he is an "overall excellent Marine and SNCO" contradicts the rating of "outstanding" in Item 15a.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. Contrary to the petitioner's arguments, assertions, and beliefs, the Board discerns absolutely nothing inconsistent or confusing between any of the marks assigned in Section B and the comments in Section C. Succinctly stated, the petitioner has attempted to employ semantics in arguing his case and we simply do not agree. There is no violation regarding the policies/procedures defined in reference (b).

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.

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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