



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

SMC
Docket No: 02799-99
5 August 1999

Dear [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 5 August 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 25 April 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. 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

2799-99

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



IN REPLY REFER TO:
1610
MMER/PERB
APR 25 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
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt [REDACTED] Form 149 of 10 Feb 99
(b) MCO P1610.7D w/Ch 1-4
(c) MCO 1610.12 (USMC Counseling Program)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 21 April 1999 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 971126 to 980323 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that the fitness report focuses on one isolated incident rather than the "whole Marine concept." He also charges that the report violates references (b) (since it was "back-dated") and (c) (absence of counseling). To support his appeal, the petitioner furnishes statements from Sergeants Major Lott and Roundtree.

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. While the Board notes that the dates in Items 22 and 24 have been changed, they do not find this to invalidate the report. The petitioner has stated the report was back-dated; however, he provides no explanation as to why he believes this action should somehow cause the Board to question the report's accuracy or fairness.

b. The issue of counseling has been sufficiently addressed and resolved by the Reviewing Officer. The Board also offers its observation that performance counseling, or a lack thereof, does not constitute grounds for removing a fitness report. Reference (b) governs a totally separate program from the Counseling Program established by reference (c). The two should be applied simultaneously; however, they are totally exclusive of each other.

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c. Contrary to the petitioner's argument, the Board does not view the report as focusing on "one isolated incident." The Reporting Senior has been very specific in those areas of the petitioner's performance which were lacking. He also cited ". . . more than seven separate occasions. . ." where profane and verbal abuse were directed at individual Marines. In the eyes of the Board, that is certainly not "one isolated incident."

d. While the observations of Sergeant [REDACTED] and Roundtree are certainly supportive and complimentary, they simply do not serve to invalidate the firsthand observations of both the Reporting Senior and Reviewing Officer.

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