



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

SMC
Docket No: 03130-01
10 August 2001

SGT ERI [REDACTED] JSMC
[REDACTED]
[REDACTED]
[REDACTED]

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. You requested removal of the fitness report for 1 July 1997 to 28 February 1998.

It is noted that the Commandant of the Marine Corps (CMC) has directed amendment of the contested fitness report by changing the entry in item 17b (whether the Marine has been the subject of an adverse report from outside the reporting chain) from "Yes" to "No."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 August 2001. 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 17 April 2001, 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 complete removal of the contested report. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Accordingly, 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
17 APR 2001

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], [REDACTED] USMC

Ref: (a) Sergeant [REDACTED] DD Form 149 of 19 Jan 01
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 11 April 2001 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970701 to 980228 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that the marks of "yes" in Items 17b (adverse) and Item 19 (qualification for promotion) do not correspond. Hence, he believes the report is invalid and should be removed.

3. In its proceedings, the PERB concluded that, with one exception, the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. The Reporting Senior incorrectly marked "yes" in Item 17b. This block is to be marked "yes" only when the Marine reported on has been the subject of adverse material from outside the reporting chain. Assignment to weight control does not constitute such an occurrence. Accordingly, the Board is directing appropriate corrections to both the fitness report and the petitioner's Master Brief Sheet.

b. The report at issue was rendered adverse because the petitioner had not been within Marine Corps standards for height/weight during the reporting period. He was placed on weight control and subsequently removed. This, per reference (b), causes the report to be adverse for the entire period.

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c. The Reporting Senior exercised his own judgmental evaluation in opting to mark "yes" in Item 19. He evidently believed that even though the petitioner was not within height/weight standards at one point during the reporting period, he was still fully qualified for promotion.

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 Sergeant [REDACTED] official military record. The limited corrective action identified in subparagraph 3a is considered sufficient.

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