



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

SMC
Docket No: 03751-00
15 June 2000

S [REDACTED] SMC

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 your fitness report for 1 March to 27 July 1998.

It is noted that the Commandant of the Marine Corps (CMC) has directed that the memorandum for the record be filed in your official record stating name, grade and title of the third sighting officer.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 June 2000. 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 24 May 2000, 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 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
24 MAY 2000

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] USMC

Ref: (a) Sergeant [REDACTED] DD Form 149 of 9 Mar 00
(b) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 May 2000 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 980301 to 980727 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that the report was incorrectly entered into the Automated Fitness Report System (AFRS) as an "adverse" report. He points out that although he was advised to append a rebuttal, there are no marks in Section B that render the report "adverse" and that no Third Officer Sighting occurred. To support his appeal, the petitioner furnishes his own statement, a copy of the fitness report at issue, his Master Brief Sheet, and his Official Military Personnel File.

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 petitioner is correct that none of the Section B markings render the report "adverse", the tenor of some of the verbiage in Section C is such that both the petitioner and the performance evaluation system were best served by allowing him to append a statement in his own behalf. He availed himself of that opportunity and surfaced his disagreements with the overall evaluation. Albeit brief, the Reviewing Officer resolved those differences and concurred in the Reporting Senior's appraisal.

b. The initials contained on the right-hand side of the fifth page of the petitioner's rebuttal statement indicate a Third Officer Sighting had been completed. The information, however, was incomplete relative to name, grade, and billet. This Headquarters has since corrected that administrative oversight via the Memorandum for the Record (MFR) of 19 April

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2000, appended to the report, which identifies the Third Sighting Officer as Lieutenant [REDACTED] II, Commanding Officer, 1st Battalion, 12th Marines.

c. The petitioner has not shown any proof of unjust, biased, or unfair circumstances that would contribute to the report being an invalid appraisal. Succinctly stated, the report was correctly processed and entered into his official record as an "adverse" fitness report.

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