



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

SMC
Docket No: 03973-01
12 October 2001

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: GYSGT [REDACTED] USMC [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 4May01 w/attachments
(2) HQMC MIFD memo dtd 27Jun01
(3) HQMC MMPR-2 memo dtd 2Jul01
(4) Subject's ltr dtd 2Aug01 w/attachments
(5) HQMC MIFD memo dtd 11Sep01
(6) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the service record page 11g ("Administrative Remarks (1070)") counseling entry dated 12 July 1999. A copy of the contested entry is at Tab A. Petitioner has also requested remedial consideration for promotion to master sergeant (pay grade E-8). He may submit his request for remedial consideration for promotion to the Headquarters Marine Corps (HQMC) Promotion Branch (MMPR-2), citing the corrective action indicated below.

2. The Board, consisting of Messrs. Carlsen and Caron and Ms. Suiter, reviewed Petitioner's allegations of error and injustice on 12 October 2001, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosures (2) and (3), the HQMC offices having cognizance over the subject matter of Petitioner's requests commented to the effect that they do not warrant favorable action.

c. Enclosure (4) is Petitioner's reply to the unfavorable advisory opinions at enclosures (2) and (3), with which he provided additional evidence.

d. At enclosure (5), the HQMC office with cognizance over the subject matter of Petitioner's request to remove the contested entry recommended that this request be approved in light of the new evidence at enclosure (4).

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (5), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the service record page 11g ("Administrative Remarks (1070)") entry dated 12 July 1999. This is to be accomplished by physically removing the page 11g on which the entry appears or completely obliterating the entry so it cannot be read, rather than merely lining through it.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

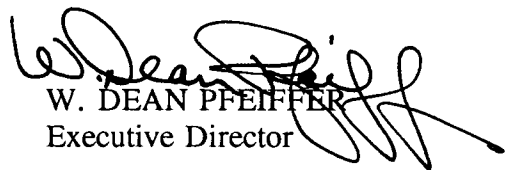
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder

Jonathan S. Ruskin
JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director



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

3973-01

IN REPLY REFER TO:
1070
MIFD

JUN 27 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED]
[REDACTED] USMC

1. We reviewed Gunnery Sergeant [REDACTED]'s application concerning his request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 990712 from his service records.

2. MCO P1070.12J, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are essential to document an event in a Marine's career for which no other means or method of recording exists. The information contained in the entry must meet two tests: 1) the information is of permanent value to the Marine's career; and, 2) the information is not, or cannot be, documented anywhere else in the Service Record Book (SRB), medical records, or the Marine's Marine Corps Total Force System (MCTFS) record.

3. One of the many leadership tools that a commander has at their disposal is counseling and rehabilitation for their Marines. Marine Corps policy is that reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings and that the commander is authorized to document those efforts by a page 11 entry counseling entry per the IRAM. The Marine Corps Separation Manual, paragraph 6105, sets forth policy pertaining to counseling and rehabilitation. In cases involving unsatisfactory performance, pattern of misconduct, or other bases requiring counseling under paragraph 6105, separation processing may not be initiated until the Marine is counseled concerning deficiencies, and afforded a reasonable opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records.

4. MCO 1610.12, the U.S. Marine Corps Counseling Program states that:

a. "Counseling is that part of leadership which ensures, by mutual understanding, that the efforts of leaders and their Marines are continuously directed toward increased unit readiness and effective individual performance.

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED] SMC

b. Increase individual performance and productivity through counseling and thereby increase unit readiness and effectiveness.

c. Enhance the leader's ability to improve the junior's performance."

5. The following comments/opinions concerning the page 11 entry dated 990712 are provided:

a. The counseling entry meets the elements of a proper page 11 counseling in that it lists specific deficiencies and recommendations for corrective action, where assistance can be found and states that Gunnery Sergeant [REDACTED] was provided the opportunity to make a rebuttal statement. Additionally, Gunnery Sergeant [REDACTED] must annotate whether or not he chooses to make such a statement and if made, a copy of the statement is filed in the SRB. Gunnery Sergeant [REDACTED] acknowledged the counseling entry by his signature and further chose to make a statement in rebuttal.

b. Gunnery Sergeant [REDACTED] does not include a copy of the rebuttal statement in his application. Additionally, his official military personnel files (OMPF) does not contain a copy of this statement on file.

c. Gunnery Sergeant [REDACTED] does provide a statement from his former supervisor, Captain [REDACTED] to support his claim that he did not "conspire to conceal an accident as stated in the page 11 entry." Captain [REDACTED] states that it is in his opinion that Gunnery Sergeant [REDACTED] did not willingly conspire to cover up the events after the accident. We defer comment and opinion on this matter.

d. The commander determined that the information contained in the page 11 entry was of permanent value to Gunnery Sergeant [REDACTED] career and cannot be documented anywhere else in the SRB or MCTFS record, thereby, documenting these events per the provisions of the IRAM.

e. Gunnery Sergeant [REDACTED] does refute the contents of the page 11 entry in support of his request for removal from his service records.

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED]
D [REDACTED] SMC

f. Gunnery Sergeant [REDACTED] offers an alternative to removing the page 11 entry from his records by requesting that a copy of his rebuttal statement be included in his OMPF. Table 4-2 of the IRAM requires that a copy be filed along with the page 11 in the OMPF.

6. In view of the above, it is recommended that

a. The Board disapprove Gunnery Sergeant [REDACTED] request for removal of the Administrative Remarks (1070), NAVMC 118(11), page 11 entry dated 990712 from his service records and include a copy of the rebuttal in his OMPF.

b. If the Board finds that Gunnery Sergeant [REDACTED] records are in error or an injustice was committed, remove the Administrative Remarks (1070), NAVMC 118(11), page 11 entry dated 990712 from his service records.

7. Point of contact [REDACTED] 9.

[REDACTED]

C. [REDACTED]
Director
Manpower Management Information
Systems Division



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

3973-01

IN REPLY REFER TO:

1070

. MIFD

11 SEP 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED]
[REDACTED] SMC

Ref: (a) My MEMORANDUM FOR Executive Director, Board for
Correction of Naval Records letter 1070 MIFD dated Jun
27, 2001

1. We were asked to review Gunnery Sergeant [REDACTED] application for the second time concerning his request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 990712 from his service records.
2. Gunnery [REDACTED] provides additional documentation in support of his request for removal of the page 11 entry.
3. The following additional comments/opinions concerning the page 11 entry dated 990712 are provided:
 - a. In paragraph 3 of Captain [REDACTED] letter 5800 SCM dated 18 Aug 99, a Gunnery Sergeant [REDACTED] is implicated in the conspiracy to commit an offense under the Uniform Code of Military Justice (UCMJ), not Gunnery Sergeant [REDACTED].
 - b. In block 10 of DD Form 458, the Charge Sheet in the court-martial of Master Sergeant [REDACTED] Gunnery Sergeant [REDACTED] is identified in the allegation that he was involved in a conspiracy, however, he was not implicated as a co-conspirator during Master Sergeant [REDACTED] court-martial.
 - c. In paragraph 5d of Captain Christoph [REDACTED] letter 5800 SCM dated 18 Aug 99, Gunnery Sergeant [REDACTED] testifies at the court-martial that he and Master Sergeant [REDACTED] are involved in the conspiracy to commit an offense under the UCMJ. Nowhere in the testimony presented in Master Sergeant [REDACTED] court-martial is Gunnery Sergeant [REDACTED] implicated to be involved in a conspiracy.

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED] SMC

4. In view of the above, it is requested that our recommendations in the reference be changed to read that the Board approve Gunnery Sergeant [REDACTED] request for removal of the Administrative Remarks (1070), NAVMC 118(11), page 11 entry dated 990712 from his service records.

5. Point of contact [REDACTED]

Manpower Management Information
Systems Division
Acting