



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 04100-00

7 July 2000

SG [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Serge [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 7 July 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 1 June 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. Accordingly, 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



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

4100-00

IN REPLY REFER TO:
1610
MMER/PERB
1 JUN 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] D Form 149 of 8 Mar 00
(b) MCO P1610.7D

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 4 May 2000 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 950601 to 960229 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that he was never allowed to make a rebuttal statement to the fitness report. To substantiate his case, the petitioner furnishes a copy of a letter from this Headquarters (MMSB-32) to the petitioner's command indicating that adverse verbiage had been included in the report and a requirement to afford him an opportunity to comment.

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. Simply stated, there is nothing in the challenged fitness report that meets the definition of an "adverse" fitness report. There are no marks in Section B below "above average" and nothing in Section C indicates any failure of mission accomplishment. The statement that the petitioner would benefit from improvement in a few areas is viewed as how he could move from "above average" and "excellent" in a few Section B qualities and traits to the "outstanding" category.

b. In looking at the date of the letter from this Headquarters, (2 July 1996) and the date of the fitness report of record (2 August 1996), one could easily conclude that the report was rewritten. Obviously the Reporting Senior did not intend to make the report "adverse" and modified the report accordingly.

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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