



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

SMC
Docket No: 04564-01
25 October 2001

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff 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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 October 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 4 June 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. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

The Board found that your more favorable recruiter fitness report for 1 March to 30 November 1997, from a different reporting senior, did not invalidate the contested report. They were unable to find you were not counseled. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. They noted the reporting senior acknowledged that your duties as noncommissioned officer in charge slightly impaired your performance of your regular duties as a recruiter. They found no inconsistency between the "BA" (below average) mark in item 14f ("initiative") and the comment to the effect that you put forth obvious effort every day. They were unable to accept your assessment of the basis for the "BA" mark in item 14m ("economy of management"). Finally, they did not find the more favorable marks in other areas contradicted the "BA" mark in item 15 ("general value to the service").

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



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

4564-01

IN REPLY REFER TO:
1610
MMER/PERB
4 JUN 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 STAFF
SERGEANT ██████████, JR. ██████████ USMC

Ref: (a) SSgt ██████████ DD Form 149 of 13 Mar 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 31 May 2001 to consider Staff Sergeant ██████████ petition contained in reference (a). Removal of the fitness report for the period 980101 to 980406 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the report is substantially inaccurate or unjust based on the short reporting period and the circumstances he narrates in his statement. To support his appeal, the petitioner furnishes a copy of the challenged fitness report and his own statement.

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. In the petitioner's statement included with reference (a), he raises the same basic issues and disagreements he surfaced in his official statement of rebuttal. Colonel ██████████ the District Director and Reviewing Officer, succinctly adjudicated the report and indicated the petitioner's recruiting results were below acceptable standards.

b. Although the petitioner denies any type of counseling, the Board finds nothing to support that allegation. Likewise, there has been nothing proffered to show the report is anything other than a fair, accurate, and objective evaluation of the petitioner's performance during the stated period. In this regard, the Board concludes the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice.

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED], [REDACTED] USMC

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