



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 04998-00

11 September 2000

SSGT [REDACTED] S 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. You requested removal of a fitness report for 29 January to 30 September 1998 and service record page 11 ("Administrative Remarks (1070)") entries dated 15 September and 18 November 1998.

It is noted that the Commandant of the Marine Corps (CMC) has removed the contested page 11 entries dated 15 September and 18 November 1998, as well as the entry dated 5 August 1997.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 September 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 14 July 2000, and the advisory opinion from HQMC (MI) dated 18 August 2000, copies of which are 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 regarding the contested fitness 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

4998-CC



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
14 JUL 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  
STAFF SERGEANT [REDACTED], [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 1 May 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 12 July 2000 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 980129 to 980930 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that, as confirmed by an Administrative Separation Board, information concerning weight control issues was erroneous. To support his appeal, the petitioner furnishes documentation from the Administrative Separation Board (3-99) and other directives which he believes are pertinent.

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. The Board finds no merit to the petitioner's allegation that he was not counseled about not maintaining his weight and body fat per Marine Corps standards. In his own rebuttal, the petitioner states his current assignment to the weight control program was for a **second time**. That fact notwithstanding, the petitioner is a staff noncommissioned officer with more than 14 years of service and is well aware of Marine Corps standards.

b. Contrary to what the petitioner may believe, the Administrative Separation Board that convened on 11 June 1999 was presented **documented evidence** of the petitioner's history of weight problems. Simply stated, none of that evidence contradicted either the accuracy or validity of the challenged fitness report.

c. The Board's decision to retain the petitioner did not somehow negate the **factual** information contained in the fitness report at issue. What is more probable, is that because of the

(4) AOS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
STAFF SERGEANT [REDACTED], 3 [REDACTED] USMC

petitioner's other exemplary qualities, the board decided that he should be given an opportunity to correct the weight problem.

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]

D. [REDACTED]  
Chairperson, Performance  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps



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

IN REPLY REFER TO:

1070  
.MI  
18 AUG 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

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

Encl: (1) CMC ltr 1070 MI of 18 Aug 2000  
(2) CMC MEMORANDUM dated 18 Aug 2000

1. We reviewed Staff Sergeant [REDACTED] application and supporting documents concerning his request for removal of the Administrative Remarks page 11 entries dated 970805, 980915 and 981118 his service records.
2. Staff Sergeant [REDACTED] claim why he believes that his records are in error or unjust is supported by MCO P1070.12, Marine Corps Individual Records Administration Manual (IRAM).
3. The enclosures are forwarded, informing the Board of the requested action administratively granted by this office.
4. Upon receipt, this office will forward to the Board the documents requested in enclosure (1).
5. Point of contact is Mr. [REDACTED]

[REDACTED]

Head, Field Support Branch  
Manpower Management Information  
Systems Division



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

4998-00

IN REPLY REFER TO:

1070

MI

18 AUG 2000

From: Commandant of the Marine Corps

To: [REDACTED]

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED]  
[REDACTED] 2621 USMC

Ref: (a) MCO P1070.12J

1. The Board for Correction of Naval Records (BCNR) has requested that this Headquarters review Staff Sergeant [REDACTED] application and provide advisory opinions and recommendations. Additionally, in the event that Staff Sergeant [REDACTED] requested action(s) can be granted administratively, corrective action by this Headquarters is authorized.

2. After a review of Staff Sergeant [REDACTED] records (OMPF/SRB) and his application, it has been determined that his SRB contains an error.

3. Corrections to Staff Sergeant [REDACTED] SRB must be completed by the custodian of his field service record per the reference. Effective upon receipt, it is requested that the following Administrative Remarks, NAVMC 118(11)a and (11)b be corrected:

a. Remove the Administrative Remarks (1070), NAVMC 118(11)a and (11)b from his SRB and return to this Headquarters under separate cover.

b. Reconstruct the Administrative Remarks (1070), NAVMC 118(11)a, by recording all original entries except for the entry dated 970805.

c. Cite this letter as authority for the record correction.

4. Point of contact is [REDACTED]  
EMail: [REDACTED]@power.usmc.mil.

[REDACTED]

By direction

ENCLOSURE (1)

18 Aug 00

MEMORANDUM

From: [REDACTED]

To: Hqs [REDACTED]

Subj: CORRECTION OF THE OFFICIAL MILITARY PERSONNEL FILE IN THE  
CASE OF STAFF SERGEANT [REDACTED]  
USMC AND STAFF SERGEANT [REDACTED]  
[REDACTED] USMC

Ref: (a) MCO P1070.12J A

1. The Board for Correction of Naval Records (BCNR) has requested that this Headquarters review the subject named Marines' applications and provide advisory opinions and recommendations concerning their alleged claim of error and injustice to their records. Additionally, in the event that their requested action(s) can be granted administratively, corrective action by this Headquarters is authorized per the reference.

2. After a review of their applications and records (OMPF/SRB), it has been determined that the following errors require corrective action:

a. Request that the page 11 entry dated 990624 be expunged from [REDACTED] OMPF.

b. Request that the rebuttal statement dated 990628 be expunged from [REDACTED] OMPF.

c. Request a review of [REDACTED] OMPF to confirm that any reference to page 11 entries dated 970805, 980915, and 981118 has not been filed in his OMPF, and if so, be expunged.

d. Request a review of [REDACTED] OMPF to confirm that any reference to rebuttal statements for page 11 entries dated 970805, 980915, and 981118 has not been filed in his OMPF, and if so, be expunged.

3. Point of contact: [REDACTED] at [REDACTED]  
Email: [REDACTED]@usmc.mil.

[REDACTED]