



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

BJG
Docket No: 5819-01
23 August 2001

SSGT [REDACTED] JSMC
[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 22 August 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 20 July 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. They did not find the marks and comments of the contested fitness reports to be inconsistent. Specifically regarding the report for 1 June to 3 August 1999, they were unable to find that the reporting senior had insufficient basis to render an observed evaluation, noting that observation need not be direct. 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

2819-01



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

IN REPLY REFER TO:
1610
MMER/PERB
20 JUL 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 [REDACTED] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 23 Apr 01
(b) MCO P1610.7D w/Ch 1-5
(c) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 July 2001 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 980101 to 980930 (DC) - Reference (b) applies
- b. Report B - 981001 to 990601 (CH) - Reference (c) applies
- c. Report C - 990601 to 990803 (TR) - Reference (c) applies

2. The petitioner contends the marks on each of the fitness reports do not reflect the corresponding narrative comments. To support his appeal, the petitioner furnishes his own statement and copies of the following documents: the challenged reports, a letter from Sergeant [REDACTED], three MCI completion certificates, and a Navy National Apprenticeship Program completion certificate.

3. In its proceedings, the PERB concluded that all three reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. While the petitioner may disagree with the assessments of his performance in the three reports at issue, he provides no substantive documentation or corroboration that would invalidate any of the evaluations. Simply stated, this is a matter of the petitioner's opinion as to the degree of his success as opposed to that of his reporting officials.

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b. To justify the deletion of a fitness report, evidence of probable error or injustice should be produced. Such is not the situation in this case.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports 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