



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

SMC  
Docket No: 06690-01  
12 October 2001

SSGT [REDACTED] USMCR  
[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 the fitness reports for 5 September 1990 to 31 July 1991 and 1 August to 8 December 1991.

It is noted that the Commandant of the Marine Corps (CMC) has directed that the contested fitness report for 1 August to 8 December 1991 be modified by removing all but the first sentence of the reporting senior's comments in section C.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 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 16 August 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 warranting further correction. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. In view of the above, 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

6690-01

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



IN REPLY REFER TO:  
1610  
MMER/PERB  
16 AUG 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] USMCR

Ref: (a) SSgt [REDACTED] DD Form 149 of 5 Jun 01  
(b) MCO P1610.7C w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 15 August 2001 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 900905 to 910731 (AR)
- b. Report B - 910801 to 911208 (EN)

Reference (b) is the performance evaluation directive governing the submission of both reports.

2. The petitioner contends that comments in Report A regarding his physical condition, temperament, and integrity are untrue and unjust and that Report B is merely a duplication of that evaluation. To support his appeal, the petitioner furnishes a copy of his statement to the President of the CY00 Promotion Board and several advocacy statements, also furnished to that Board on his behalf.

3. In its proceedings, the PERB concluded that:

a. Report A is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

(1) The issues which the petitioner surfaces in reference (a) should have been raised when he acknowledged the adverse nature of the report some ten years ago. To do so at this time lacks not only timeliness, but a certain amount of credibility as well.

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(2) Notwithstanding the observations made by Lieutenant [REDACTED] and Lt [REDACTED] nothing has been presented to substantiate Captain [REDACTED] alleged unauthorized absence (UA). Even if that were the case, it appears the UA was during the period covered by Report B and has no impact on the evaluation contained in Report A.

(3) Lieutenant Colo [REDACTED] 's explanation of the facts is not considered credible since he was not present during the period covered by Report A. However, based on the comments in Section C of Report B, we do know the petitioner warrants the adverse evaluation contained in Report A. Whatever Captain [REDACTED] displeasure with Captain [REDACTED] change of status may have been, he did not challenge the credibility or validity of Report A.

(4) The remainder of the advocacy statements furnished with reference (a) positively address the petitioner's performance **subsequent** to the period covered by Report A. Consequently, they have no bearing on the finite period covered.

b. Report B, although "not observed", was rendered "adverse" by virtue of several comments in Section C. The Board does not believe that complete removal of the report is necessary and has directed elimination of everything beginning with: "Justifiably . . ." Section C of Report B will read as follows: "This is a not observed report for the following reasons: [REDACTED] ended his SMCR status by transferring to the IRR on 911208."

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A and the modified version of Report B should remain a part of Staff Sergeant [REDACTED] 's official military record. The limited corrective action identified in subparagraph 2b is considered sufficient.

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SERGEANT [REDACTED] USMCR

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