



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

SMC
Docket No: 06691-01
25 October 2001

GYSG [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Gunnery 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 20 August 2001, a copy of which is attached, and your letter dated 18 September 2001 with enclosures.

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 the reviewing officer permissibly referred to matters outside the reporting period in question, in order to reply to issues you raised in your rebuttal to the contested fitness report. Despite the documentation with your letter of 18 September 2001, they were not persuaded that the report at issue was in reprisal for your having requested transfer to another station. 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

6691-01

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

Ref: (a) GySgt [REDACTED] DD Form 149 of 30 May 01
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 15 August 2001 to consider Gunnery Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 990430 to 990823 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is unjust and contains inaccurate information concerning his accomplishments, knowledge, leadership abilities, and loyalty and dedication throughout his career. To support his appeal, the petitioner furnishes his own statement and copies of the following documents: the challenged fitness report; endorsements on his request for permanent change of station (PCS) orders; the immediately preceding fitness report (981001 to 990429 (CH)); Navy and Marine Corps Achievement Medal citation (971001 to 980930); inspection checklist; two advocacy statements; 1997 and 1998 progress reports; and high school recruiting statistics.

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. At the outset, the Board emphasizes that a majority of the documentation included with reference (a) -- to include the Navy/Marine Corps Achievement Medal citation and the laudatory comments by [REDACTED] and Colonel [REDACTED] -- speak of performance either prior or subsequent to the period covered by the challenged fitness report. Consequently, they have absolutely no bearing on the issues under consideration.

b. As an adverse fitness report, the petitioner was afforded his rightful opportunity to acknowledge and respond to

(3) PERB

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the evaluation. He availed himself of that prerogative and presented his perspective. The Reviewing Officer adjudicated all factual differences; however, he nonconcurred in the Reporting Senior's recommendation regarding the petitioner's qualification for promotion. Such a statement constituted new/ additional adverse material and required the petitioner to be afforded another opportunity for comment. Again, he availed himself of that right. In the final analysis, the Commanding General, Marine Corps Recruit Depot/Eastern Recruiting Region, Parris Island, South Carolina, upheld the observations of the Reporting Senior and Reviewing Officer.

c. Notwithstanding the significant amount of documentation included with reference (a), the Board is not convinced or otherwise persuaded that the fitness report at issue represents anything other than a fair and accurate portrayal of the petitioner's performance and accomplishments during the stated period.

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