



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

BJG
Docket No: 5454-02
4 December 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: SSC [REDACTED] USN [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 13 Jun 02 w/attachments
and supporting documents, incl Subject's ltr dtd 22 Nov 02
(2) HQMC MIFD memos dtd 22 Jul, 8 Aug, 12 Sep, and 28 Oct 02
(3) Memo for record dtd 18 Nov 02
(4) Memo for record dtd 21 Nov 02
(5) Subject's naval record
(6) HQMC MIFD e-mail dtd 26 Nov 02

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing the service record page 11.b ("Administrative Remarks (1070)") counseling entry dated 24 October 2000 and his rebuttal dated 25 October 2000 (copies at Tab A to enclosure (1)).
2. The Board, consisting of Messrs. Beckett and Leeman and Ms. Suiter, reviewed Petitioner's allegations of error and injustice on 26 November 2002, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of enclosures (1) through (5), naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. As indicated in correspondence at Tab B to enclosure (1), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of Petitioner's adverse transfer fitness report for 27 June to 26 September 2000 (copy at Tab C to enclosure (1)). His fitness report for the period 27 September to 30 November 2000 (copy at Tab D to enclosure (1)), during which he received the contested page 11.b entry, was positive in all respects.

c. In the four advisory opinions at enclosure (2), the HQMC Manpower Information Systems Field Support Branch, Manpower Management Information Systems Support Division (MIFD), the office having cognizance over the subject matter of Petitioner's request, commented to the effect that it should be denied. MIFD adhered to this position despite correspondence at enclosure (1), from the commanding officer who signed the contested entry and the first sergeant who administered the counseling, to the effect that they felt the entry was unjust and warranted removal.

d. The memorandum for the record (MFR) at enclosure (3) shows the chairperson of the HQMC PERB reported that if the PERB had the authority, they would have removed not only the adverse transfer fitness report, but also the page 11.b entry in question, because it was prepared after Petitioner had transferred.

e. The MFR at enclosure (4) shows the individual who prepares the advisory opinions for the HQMC MIFD, having been advised of the PERB support for removing the entry at issue, indicated this did not change his office's position.

f. Enclosure (5) is Petitioner's Official Military Personnel File.

g. The service record page 11.b on which the contested entry appears also includes an uncontested entry.

4. After the Board had considered Petitioner's case and determined that the corrective action indicated below was warranted, the individual who prepares the advisory opinions for the HQMC MIFD submitted the e-mail at enclosure (6), advising that per the Board's action, he concurred with removing the contested page 11.b entry, as this is "in the best interest" of the Marine Corps.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the requested relief. They agree with the PERB, noting that the contested counseling entry was prepared a month late, that is, after the period of the adverse fitness report PERB removed. They particularly note that the fitness report for the period during which the entry was given, 27 September to 30 November 2000, was entirely positive. In their view, the counseling entry at issue was fatally stale. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's record be corrected by removing the contested service record page 11.b ("Administrative Remarks (1070)") entry dated 24 October 2000, together with his rebuttal dated 25 October 2000. Removal of the entry is to be accomplished by reconstructing the page 11.b on which the entry appears, so as to omit the entry; or by

completely obliterating the entry so that it cannot be read, rather than merely drawing a line through it.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

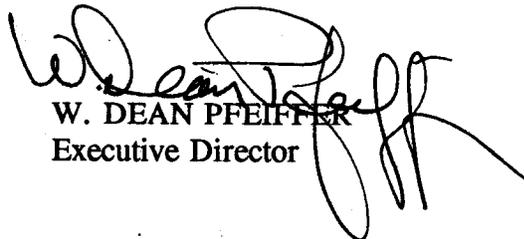
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

5. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

6. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director



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

3-4 5/102

IN REPLY REFER TO:
1070
MIFD
22 JUL 2002

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEAN [REDACTED]
[REDACTED] MC

1. Staff Sergeant [REDACTED] application with supporting documents has been reviewed concerning his request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 001024 from his service records.
2. MCO P1070.12K, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 that are essential to document an event in a Marine's career for which no other means or method of recording exists. Authorized entries under this rule must meet two tests: (1) the information contained in the entry is of permanent value to the Marine's career; and, (2) the information is not, or cannot be, documented anywhere else in the Service Record Book (SRB) or the Marine's automated record.
3. MCO 1610.12, the U.S. Marine Corps Counseling Program states that:
 - a. "Counseling is that part of leadership which ensures, by mutual understanding, that the efforts of leaders and their Marines are continuously directed toward increased unit readiness and effective individual performance.
 - b. Increase individual performance and productivity through counseling and thereby increases unit readiness and effectiveness.
 - c. Counseling enhances the leader's ability to improve the junior's performance."
4. One of the many leadership tools that a commander has at their disposal is counseling and rehabilitation for their Marines. Marine Corps policy is that reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings and that the commander is authorized to document those efforts by a page 11 counseling entry per the IRAM. The Marine Corps Separation Manual, paragraph 6105, sets forth policy pertaining to counseling and rehabilitation. In cases involving unsatisfactory performance, pattern of misconduct, or

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

other basis requiring counseling under paragraph 6105, separation processing may not be initiated until the Marine is counseled concerning deficiencies, and afforded a reasonable opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records.

5. The following comments/opinions concerning the page 11 entry dated 001024 are provided:

a. The counseling entry does meet the elements of a proper page 11 counseling in that it lists deficiencies and recommendations for corrective action. Though the information concerning where assistance can be found is very brief, as an experienced Staff Noncommissioned Officer, he is expected to know without going into detail. Additionally, the entry states that Staff Sergeant [REDACTED] was provided the opportunity to make a rebuttal statement and afforded an opportunity to annotate whether or not he chose to make such a statement, and if made, a copy of the statement would be filed in his SRB.

b. Staff Sergeant [REDACTED] acknowledged the counseling entry by his signature, and indicated his desire "to" make a statement in rebuttal. Staff Sergeant [REDACTED] includes a copy of the rebuttal statement in his application.

c. Staff Sergeant [REDACTED] claims in his letter dated 13 Jun 02 that his records are in error or unjust due to "the PERB stated that my Performance Evaluation was reviewed and allegations of "error and injustice" were found in my record, while a member of the Adjutant's Office, G-1, under Company "B", Headquarters and Service Battalion, Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan." is irrelevant. As stated in paragraph 3 above, counseling is accomplished to overcome deficiencies that a Marine may have. The event, counseling, did in fact occur, and the a page 11 counseling should have no correlation with a fitness report. The page 11 entry, not the fitness report that Staff Sergeant [REDACTED] refers to, was prepared to provide counseling for personal deficiencies.

d. Staff Sergeant [REDACTED] claims in his rebuttal statement that his records are in error or unjust due to his being "an administrator for over 15 years." and that he had "a two-year successful tour as a Drill Instructor", he could not possibly have had those deficiencies that are contained in the page 11 entry. It is possible that after a sustained period of superb

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

performance, two years as a Drill Instructor, and length of service in a MOS, Staff Sergeant [REDACTED] may have become complacent when assigned to this particular duty and he perceived that duty as a comfort zone from his previous assignments. By using his previous assignment as a crutch for support, attention to present situations as a leader may become a deficiency.

e. The only documented evidence Staff Sergeant [REDACTED] provides is in direct relation to his PERB action and his own personal opinion. There is not sufficient justification to refute the contents of the page 11 counseling entry. As stated in paragraph 3 and 4 above, Staff Sergeant [REDACTED] commander utilized all available leadership tools and documented those actions by the preparation of the page 11 counseling entry.

6. In view of the above, it is recommended that:

a. The Board for Correction of Naval Records disapprove Staff Sergeant [REDACTED] request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 001024 from his service records.

b. If the Board for Correction of Naval Records finds that Staff Sergeant [REDACTED] records are in error or an injustice was committed, remove the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 001024 from his service records.

7. Point of contact [REDACTED]

[REDACTED]

Head, Manpower Information
Systems Field Support Branch,
Manpower Management Information
Systems Support Division

5454-02



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

IN REPLY REFER TO:
1070
MIFD
12 SEP 2002

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

- Ref: (a) MEMORANDUM FOR Executive Director, Board for Correction of Naval Records letter 1070 MIFD dated 22 Jul 2002
- (b) MEMORANDUM FOR Executive Director, Board for Correction of Naval Records letter 1070 MIFD dated 8 Aug 2002

1. We were asked to review Staff Sergeant [REDACTED] application for the third time concerning his request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 001024 from his service records.

2. Staff Sergeant [REDACTED] provides additional documentation in support of his request for removal of the page 11 entry.

3. After a review of the additional documentation, we have no additional comments/opinions concerning the page 11 entry, therefore, our recommendations contained in the references remain unchanged.

4. Point of [REDACTED]

[REDACTED]
[REDACTED]
Director
Manpower Management Information
Systems Division
Acting



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

3454-02

IN REPLY REFER TO:
1070
MIFD
28 OCT 2002

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

- Ref: (a) MEMORANDUM FOR Executive Director, Board for
Correction of Naval Records letter 1070 MIFD dated
22 Jul 2002
(b) MEMORANDUM FOR Executive Director, Board for
Correction of Naval Records letter 1070 MIFD dated
8 Aug 2002
(c) MEMORANDUM FOR Executive Director, Board for
Correction of Naval Records letter 1070 MIFD dated
12 Sep 2002

1. We were asked to review Staff Sergeant [REDACTED]
application for the fourth time concerning his request for
removal of the Administrative Remarks (1070) NAVMC 118(11) page
11 entry dated 001024 from his service records. Staff Sergeant
[REDACTED] provides additional documentation in support of his
request for removal of the page 11 entry.

2. After a review of the additional documentation, we have no
additional comments/opinions concerning the page 11 entry,
therefore, our recommendations contained in the references
remain unchanged. Point of contact [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
Director
Manpower Management Information
Systems Division

DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)
PERFORMANCE SECTION
2 NAVY ANNEX, SUITE 2432
WASHINGTON, DC 20370-5100
TELEPHONE: (703) 614-2293 OR DSN 224-2293
FACSIMILE: (703) 614-9857 OR DSN 224-9857

MEMORANDUM FOR THE RECORD

DATE: 18NOV02

DOCKET NO: 5454-02

PETITIONER (PET): [REDACTED] USMC

PARTY CALLED: [REDACTED]

TELEPHONE #: [REDACTED]

WHAT I SAID: I ASKED DAHRIE WHY PET'S ADVERSE FITREP 27JUN-26SEP00 WAS REMOVED BY THE PERB.

WHAT PARTY SAID: DAHRIE INFORMED ME THAT THE REASONS THE PERB REMOVED PET'S CONTESTED FITREP WERE: SHORT PERIOD OF TIME, PET WAS NOT GIVEN THE OPPORTUNITY TO IMPROVE HIS PERF, AND EACH TIME PET WOULD SUBMIT A REBUTTAL (3 TIMES), NEW VERSION OF FITREP WAS PREPARED IN RESPONSE. IF PERB HAD THE AUTHORITY, THEY WOULD HAVE VOTED UNANIMOUSLY TO REMOVE PAGE 11 BECAUSE IT WAS PREPARED AFTER PET HAD TRANSFERRED.

[REDACTED]

DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)
PERFORMANCE SECTION
2 NAVY ANNEX, SUITE 2432
WASHINGTON, DC 20370-5100
TELEPHONE: (703) 614-2293 OR DSN 224-2293
FACSIMILE: (703) 614-9857 OR DSN 224-9857

MEMORANDUM FOR THE RECORD

DATE: 21NOV02

DOCKET NO: 5454-02

PETITIONER: [REDACTED] USMC

PARTY WHO CALLED: [REDACTED]

TELEPHONE #: [REDACTED]

WHAT I SAID: I ASKED [REDACTED] HIS RECOMMENDATION RE THE P 11 ENTRY DTD 24OCT00 HAD CHANGED.

WHAT PARTY SAID: [REDACTED] REPLIED IN THE NEGATIVE. HE SAID THAT EVEN THOUGH THE ADVERSE "TR" FITREP FOR 27JUN-26SEP00 HAD BEEN REMOVED BY THE PERB, HE NOTED THAT PET MERELY WENT TO A NEW DUTY LOCATION ON OKINAWA AND WAS COUNSELED AT HIS NEW COMMAND. PET ACTUALLY LEFT OKINAWA ON 7JAN01.

[REDACTED]