



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

BJG  
Docket No: 6813-02  
22 November 2002

SSC [REDACTED] USMC  
MT [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 21 November 2002. 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 (HQMC) Performance Evaluation Review Board (PERB) in your case, dated 24 July 2002, and the advisory opinion from the HQMC Manpower Management Information Systems Support Division (MIFD), dated 21 August 2002, copies of which are attached. They also considered your two undated rebuttal letters.

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 and the advisory opinion from MIFD. The acceptance of your apology, by the person you were alleged to have sexually harassed, would not preclude documenting the matter in your naval record. You say nobody ever told you the results of your rebuttal to the contested service record page 11 counseling entry; however, the fact that the entry has been placed in your record indicates your rebuttal did not convince your command that the entry was unwarranted. 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

Enclosures



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

6813-02

IN REPLY REFER TO:  
1610  
MMER/PERB  
JUL 24 2002

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) SS [REDACTED] DD Form 149 of 29 Apr 02  
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 22 July 2002 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 011114 to 020108 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the sexual harassment issue recorded in the fitness report was found to be unsubstantiated. To support his appeal, the petitioner furnishes his own detailed statement.

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. When the petitioner acknowledged the adverse nature of the report, he specifically stated that he had apologized for his offensive comments took **full responsibility** for his actions. To now disclaim the severity of the situation, which resulted in a DASH report by the Commanding General of the 2d Marine Aircraft Wing, lacks both merit and credibility.

b. It is the Board's position that to justify the deletion or amendment of a fitness report, evidence of probable error or injustice should be provided. His own statement notwithstanding, the petitioner has failed to do so.

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.

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SERGEANT [REDACTED] USMC

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



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

6813-00

IN REPLY REFER TO:

1070  
MIFD  
21 AUG 2002

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

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

1. We reviewed Staff Sergeant [REDACTED] application and supporting documents concerning his request for removal of the page 11 entry dated 011218 from his service records.
2. MCO P1070.12J, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book (SRB) or the Marine's automated record. MCO P5354.1C, Marine Corps Equal Opportunity Manual provides guidance and instructions for the implementation and management of the Marine Corps Equal Opportunity Program that involves discrimination.
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 commanders 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. MCO P1900.16, Marine Corps Separation and Retirement Manual (MARCORSEPMAN), paragraph 6105, sets forth policy pertaining to counseling and rehabilitation. In cases involving unsatisfactory performance, pattern of misconduct, or other bases requiring counseling under paragraph 6105, separation

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

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 are provided:

a. The counseling entry meets the elements of a proper page 11 counseling in that it lists deficiencies, recommendations for corrective action, available assistance, and states that Staff Sergeant [REDACTED] was provided the opportunity to make a rebuttal statement. Additionally, the entry affords him an opportunity to annotate whether or not he desires to make such a statement and if made, a copy of the statement would be filed in the Service Record Book (SRB).

b. Staff Sergeant [REDACTED] acknowledged the counseling entry by his signature and indicated his desire "to" make a statement in rebuttal which he encloses in his application as enclosure (4), "Addendum to the Page 11". Nowhere in this document or in his rebuttal statement to the fitness report, that is also enclosed, does he refute the contents of the page 11 entry or the event itself. He actually implicates himself by alluding to an agreement by all parties involved of "a third party informal resolution".

c. Staff Sergeant [REDACTED] claim that his records are in error because "The offense was found unsubstantiated" is not supported by documented evidence included in his application or MCO P5354.1C. Sexual harassment is a form of discrimination and Staff Sergeant [REDACTED] conduct resulted in an allegation per paragraph 3007.1c of MCO P5354.1C. His commander was required to conduct an inquiry and determine the appropriate course of action and then initiate action, which was appropriately disposed of in a timely fashion and at the lowest appropriate level authorized by paragraph 3007.7 of MCO P5354.1C.

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 011218 from his service records.

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

b. If the Board for Correction of Naval Records finds that Staff Sergeant [REDACTED] records are in error or an injustice was committed, approve his request to remove the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 011218 from his service records.

7. Point of contact is [REDACTED]

Director,  
Manpower Management Information  
Systems Support Division