



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

BJG
Docket No: 6836-02
3 September 2002

MSC [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Master 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 29 August 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 Performance Evaluation Review Board (PERB), dated 24 July 2002, 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. While they did recognize that the reporting senior (RS) supported removing the contested fitness report, they noted the reviewing officer (RO) expressly acknowledged that the "RS and RO fundamentally disagree." They particularly noted the third sighting officer concluded that "the report stands as written." 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

683602

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
MASTER SERGEANT [REDACTED] USMC

Ref: (a) MSg [REDACTED] DD Form 149 of 14 May 02
(b) MCO P1610.7E w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 22 July 2002 to consider Master Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 991001 to 000104 (GC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the Reviewing Officer's adverse remarks were based on personal issues vice a professional evaluation. To support his appeal, the petitioner furnishes several statements.

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. Nowhere in reference (a) does the petitioner detail precisely how or why he believes the Reviewing Officer's assessment and comments were based on "personal issues", as opposed to a professional evaluation. Such is certainly not apparent in reading the Reviewing Officer's comments, all of which address his performance and mission accomplishment.

b. While the letters included with reference (a) are complimentary and supportive, the Board observes that ~~none~~ ^{only one} of the individuals who provided those testimonials ~~were~~ ^{was} in the ~~BB~~ ^{BB} petitioner's direct reporting chain. Likewise, it cannot be presumed they were more aware of the petitioner's overall responsibilities to his Company Commander (Reviewing Officer).

c. The Board finds nothing in reference (a) that was not available to or otherwise known by the Reviewing Officer and Adverse Sighting Officer when the report was initially prepared,

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rebutted, adjudicated, and submitted to this Headquarters. To this end, the Board finds the petitioner has failed to establish the existence of either an error or an injustice.

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