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

BJG
Docket No: 8259-01
30 January 2002

[REDACTED]

Dear [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.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of the contested fitness report for 2 September 1999 to 31 March 2000.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 January 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), dated 2 November 2001 with enclosure, the advisory opinion from the HQMC Manpower Management Information Systems Division (MIFD), dated 11 December 2001 with enclosure, and the memorandum for the record dated 23 January 2002, copies of which are 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 advisory opinion from MIFD. Accordingly, 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

Enclosures

8259-01



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

IN REPLY REFER TO:

1610
MMER
2 Nov 01

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 1 Nov 01

1. As evidenced by the enclosure, PERB removed from Sergeant [REDACTED] official military record, his fitness report for the period 990092 to 000331 (AN).

2. We defer to BCNR on the issue of Sergeant [REDACTED] request to remove Page 11 entries from his Service Record Book.

[REDACTED]

Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps

8259-01



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

IN REPLY REFER TO:

1610
MMER/BERB
1 NOV 2001

From: Commandant of the Marine Corps
To: Sergeant [REDACTED] USMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
19 Jun 00	[REDACTED]	990902 to 000331 (AN)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated them, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. Since your request to remove Page 11 entries from your Service Record Book does not fall under the purview of this Headquarters, your case is being forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that matter. Further inquiries should be directed to that agency at [REDACTED]

[REDACTED]

[REDACTED]

By direction

4259-01



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

IN REPLY REFER TO:
1070
MIFD
DEC 11 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

Encl: (1) Copy of page 11 entry dated 000327

1. Sergeant [REDACTED] application with supporting documents has been reviewed concerning his request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entries dated 000310 and 000327 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.

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 other bases 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.

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

5. The following comments/opinions concerning the page 11 entry dated 000310 are provided:

a. The counseling entry does meet the elements of a proper page 11 counseling in that it lists deficiencies, recommendations for corrective action, where assistance can be found, and states that Sergeant [REDACTED] provided the opportunity to make a rebuttal statement. Additionally, Sergeant [REDACTED] 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. Sergeant [REDACTED] acknowledged the counseling entry by his signature, and indicated his desire "to" make a statement in rebuttal. Sergeant [REDACTED] includes a copy of the rebuttal statement in his application.

c. Sergeant [REDACTED] claims that the page 11 entry is in error and unjust because the entry was "to cover for the 2 adverse marks on the revised fitness report" and that "The reporting senior was digging for negative documentation and had the page 11 entry entered unjustly to cover his report." Even though the event, counseling, did in fact occur, a page 11 counseling should have no correlation with preparation of a fitness report. The page 11 entry, not the fitness report that Sergeant May refers to, was prepared due to the incident that occurred. The fitness report was prepared due to the annual requirement by current policy. Additionally, MCO 1610.12 states "Counseling is not necessarily synonymous with being a fitness report writer, but being a fitness report writer is synonymous with counseling."

d. Sergeant [REDACTED] does not provide documented evidence in his application to support his claim that the page 11 entry is in error and unjust "due to the fact of bringing my problem to them for assistance and was used negatively". As stated in paragraph 3 and 4 above, Sergeant [REDACTED] Commander utilized all available leadership tools and documenting those actions by the preparation of a page 11 counseling entry.

e. Sergeant [REDACTED] claims that the page 11 entry is in error and unjust because the entry was prepared "two and a half months" after the incident of a domestic disagreement with his spouse concerning their personal finances. It was noted in the documented evidence included in his application, enclosure (13) and (14), Sergeant [REDACTED] not available for a period of time when he participated in a maintenance course from 24 January 2000 through 17 February 2000 and the Family Service Center

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

Stress Management Class on 23 February 2000. The amount of time that elapsed from when the incident occurred and the completion of counseling appears to be reasonable when viewing his availability at the unit.

f. Sergeant [REDACTED] contests and explains the page 11 entry.

6. The following comments/opinions concerning the page 11 entry dated 000327 are provided:

a. The counseling entry does meet the elements of a proper page 11 counseling in that it lists deficiencies, recommendations for corrective action, where assistance can be found, and states that Sergeant [REDACTED] provided the opportunity to make a rebuttal statement. Additionally, Sergeant [REDACTED] as 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. Sergeant [REDACTED] acknowledged the counseling entry by his signature, and indicated his desire "to" make a statement in rebuttal. Sergeant [REDACTED] includes a copy of the unsigned rebuttal statement in his application.

c. Sergeant [REDACTED] claims that the page 11 entry is in error and unjust because "there was no date on the page 11 entry". A copy of the page 11 entry, enclosure (1), was obtained from Sergeant [REDACTED] unit and the entry on file in his SRB contains a date that appears to have been entered at the time of the counseling.

d. Sergeant [REDACTED] claims that the page 11 entry is in error and unjust because "the reporting senior once again stating false information.". Due to the lack of documented evidence in support of this claim, we are unable to provide a comment or an opinion if an error and an injustice was committed.

e. Sergeant [REDACTED] claims that the page 11 entry is in error and unjust because "the reporting senior is incorrect in saying that I was not being responsive to informal counseling.". MCO 1610.12 addresses counseling and provides guidance for leaders to to accomplish the Marine Corps goals in developing juniors, improving individual performance, and enhancing unit productivity. Though format and frequency will vary, depending on the Marine's grade, experience, position, and responsibilities, counseling can take place as an event-related counseling as well as an individual counseling sessions that does not result in the commander's preparation of a page 11. As

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

stated in paragraph 3 above, counseling is used to ensure, by mutual understanding, that the efforts of leaders and their Marines are continuously directed toward increased unit readiness and effective individual performance.

f. Sergea[REDACTED] ntests and explains the page 11 entry.

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

a. The Board for Correction of Naval Records disapprove Sergeant [REDACTED] request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entries dated 000310 and 000327 from his service records.

b. If the Board for Correction of Naval Records finds that Sergeant [REDACTED] records are in error or an injustice was committed, remove the Administrative Remarks (1070) NAVMC 118(11) page 11 entries dated 000310 and 000327 from his service records.

8. Point of contact is Mr [REDACTED]

[REDACTED]

Director
Manpower Management Information
Systems Division



ADMINISTRATIVE REMARKS (1070)

DATE	DATE	
Articles UCMJ explained to me this date as required by Article 173, USMJ.	Articles UCMJ explained to me this date as required by Article 173, USMJ.	
(Signature)	(Signature)	

000327 : Counseled this date concerning your lackadaisical attitude towards your primary duty as a FREST instructor under training. Specifically: 1. Not being responsive to informal counseling concerning your inability to deconflict your personal affairs with normal working hours. 2. Not being an active participant in the stand up phase of the V-22 FREST. 3. Your unwillingness to accept guidance from the Director of Training and further stating to him that you didn't have a job in the FREST. The following specific guidance is provided: Make an honest effort to synchronize you personal and professional responsibilities. Take the initiative, don't sit around and wait for every task to be handed to you. Accept guidance for your shortcomings and strive to overcome them. Assistance is available to you through your chain of command. I am advised that failure to take corrective action may result in administrative seperation or limitation on further service. I was advised that within 5 working days after acknowledgement of this entry a written rebuttal could be submitted and that such a rebuttal will be filed on the document side of the service record book. I choose (to) ~~(not to)~~ make such a statement.

000612 : Counseled this date concerning your unauthorized absence status on 000512, use of poor judgement and poor financial management. Your conduct during this period has not reflected what is normally expected from a Sergeant of Marines and a Marine eligible for promotion. After completion of the range detail you failed to report back to assigned place of work, Operations Department, Ground Training. You failed to understand the directions given to you ~~by~~ concerning your authorization to leave your place of duty. You decided to leave your place of work early to drive to your parents' house in order to purchase a boat. To correct this deficiency you should keep a notebook and record all directions and guidance that is given to you. When you are uncertain of directions or there is a question and/or inconsistency in direction given to you, you are required to seek additional guidance or clarification. Further assistance is available through your chain of command from your SNCOIC and OIC. Additionally, a review of a financial counseling worksheet shows that you have a negative cash flow based on your salary. You have \$26,545 of debt (not including your allotments). Your monthly income is \$2,061. Your monthly credit payments are \$1,239.65. Your monthly mandatory deductions are \$1,098.

~~_____~~ ~~_____~~ SM

~~_____~~ ~~_____~~

_____	_____
NAME (last, first, middle)	SSN

NAMIC ~~_____~~ SH
PREVIOUS EDITIONS WILL BE USED

(1) a ~~_____~~

Encl (1)
Cont'd on ~~_____~~

MEMORANDUM FOR THE RECORD

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

DATE: 23JAN02

DOCKET NO [REDACTED]

PETITIONER (PET): [REDACTED] JSMC

PARTY CONTACTED [REDACTED] HQMC PERB

WHAT I SAID: I ASKED [REDACTED] WHY THE PERB REMOVED PET'S CONTESTED FITREP.

WHAT PARTY SAID: DAHRIE INFORMED ME THAT THE REASON THE PERB REMOVED PET'S CONTESTED FITREP WAS BECAUSE ALTHOUGH HE HAD PERSONAL PROBLEMS, A CONFUSING ENVIRONMENT EXISTED AT HIS COMMAND, AS WELL AS POOR LEADERSHIP. ALSO, THE RO COMMENTS WERE ILLOGICAL AND CONVOLUTED. THE PERB ALSO FOUND THAT THE FITREP WAS SUBMITTED LATE, AS WELL AS THE PAGE 11S. FINALLY, THE RO WAS RELIEVED FOR CAUSE FOR FALSIFYING MAINTENANCE RECORDS.

[REDACTED]