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

BJG
Docket No: 8331-01
10 January 2002

SGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear 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 10 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 Performance Evaluation Review Board (PERB), dated 20 November 2001, 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. Accordingly, 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

8331-01

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

Ref: (a) [REDACTED] DD Form 149 of 10 Sep 01
(b) MCO P1610.7E w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 20 November 2001 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 991004 to 991022 (FD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report represents an injustice. He provides the circumstances surrounding his disenrollment from the Sergeant's Course and indicates he subsequently returned and successfully completed the course in March 2000. It is the petitioner's belief that the report violates certain provisions of reference (b) concerning what comments can and cannot be included in fitness reports documenting disenrollment from a formal course of instruction.

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. Simply stated, the petitioner has misread or misinterpreted the portions of reference (b) he cites in his argument. Subparagraph 5001.3d(7) of that directive identifies Section I comments that render a report adverse and is quoted verbatim: "Comments identifying academic failure in an MOS related school once the Marine already has a primary MOS, and academic or leadership failure at a PME course of instruction." Since the Sergeant's Course is a formal PME course of instruction, and the petitioner was disenrolled for academic failure, the report was correctly written as an adverse evaluation.

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b. The petitioner is to be commended on his subsequent completion of the Sergeant's Course. That fact, however, does not somehow negate the validity or accuracy of the challenged fitness report.

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