



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

in

BJG
Docket No. [REDACTED]
18 January 2002

MSGT [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Master Serge [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 17 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 13 December 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

48637-01

IN REPLY REFER TO:

1610
MMER/PERB
13 DEC 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
MASTER SERGEANT [REDACTED] USMC

Ref: (a) MSgt [REDACTED] D Form 149 of 10 Oct 01
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 12 December 2001 to consider Master Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 001001 to 001024 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is in direct violation of reference (b) and infers it has been used as a "counseling tool." It is his position that at no time was he ever counseled or told that he was not performing "above and beyond" what was expected of him as either a Master Sergeant or a Maintenance Chief. To support his appeal, the petitioner furnishes his own statement, a letter from Sergeant [REDACTED] and copies of other fitness reports.

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. At the outset, the Board emphasizes that the issues the petitioner raises in reference (a) are the same basic objections he surfaced in his official rebuttal to the report. Those matters were sufficiently resolved and corrected prior to submission of the report or are so insignificant that corrective action is not deemed necessary.

b. To alleviate any question of "counseling", the Reporting Senior (now Lieutenant Colonel [REDACTED]) was contacted on 14 November 2001. He specifically stated there were numerous counseling sessions, both written and verbal, regarding the petitioner's difficulty in performing his assigned duties. He stated the reason it was not reflected on prior fitness reports

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was because the command was aware the petitioner was new to the community and wanted to allow ample time for him to become more experienced in the EA-6B aircraft.

c. The Board observes that Lieutenant Colonel [REDACTED] was the petitioner's Reviewing Officer on the immediately preceding fitness report and provided insightful comments on that appraisal. He obviously observed the petitioner for longer than the 24 days covered by the report at issue. Regardless, he was still within his rightful prerogative in rendering an "observed" fitness report. To this end, we discern neither an error nor an injustice.

d. While Sergeant [REDACTED] letter is certainly supportive, it does nothing to negate the judgmental evaluations of either the Reporting Senior or Reviewing Officer, both of whom were in the petitioner's direct reporting chain. Likewise, other fitness reports may reflect decidedly higher evaluations, but they do not serve as valid gauges in determining the validity 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 Master 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