



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

BJG
Docket No: 10846-02
27 January 2003

SSG [REDACTED] USMC
[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.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of the contested fitness report for 3 July to 24 August 2001.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 January 2003. 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 19 December 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. They were unable to find you were not counseled by the reporting senior regarding your performance as a career planner. In this regard, they generally do not grant relief on the basis of an alleged absence of counseling, as counseling takes many forms, so the recipient may not recognize it as such when it is provided. In view of the above, 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

Enclosure



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

IN REPLY REFER TO:
1610
MMER/PERB
DEC 19 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 ██████████ USMC

Ref: (a) SSgt ██████████ DD Form 149 of 30 Sep 02
(b) MCO P1610.7E w/Ch 1
(c) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 December 2002 to consider Staff Sergeant ██████████ petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 990525 to 991030 (CH). Reference (b) applies
- b. Report B - 991031 to 991231 (AN). Reference (b) applies
- c. Report C - 010703 to 010824 (TR). Reference (c) applies

2. The petitioner contends that all three reports fail to reflect accurate and fair evaluations of his performance during the stated periods. This, he believes, is especially evident with Report C since the observation period is less than two months. With specific regard to Reports A and B, the petitioner alleges they are products of baseline reports of the respective Reporting Seniors and biased in nature. He also believes that each report contains innuendos of adversity.

3. In its proceedings, the PERB concluded that:

a. Reports A and B are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

(1) At the outset, the Board emphasizes that neither Report A nor Report B contain any evidence of bias. That the petitioner believes otherwise has not been documented or substantiated. In this regard, the Board concludes the

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] BMC

petitioner has failed to meet the burden of proof necessary to establish the existence of an error or injustice.

(2) There is absolutely no evidence of adversity in either report, by innuendo or otherwise. The petitioner's argument to the contrary is viewed as his misinterpretation of reference (b).

(3) The petitioner is mistaken in his belief that the reporting officials have submitted inflated reports on other Marines, thereby negatively influencing the relative value of Reports A and B. A review of the profiles of both Reporting Seniors indicates the petitioner's assumption is untrue and not supportable.

b. The removal of Report C is warranted and has been directed.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Reports A and B should remain a part of Staff 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