



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

BJG  
Docket No: 5176-03  
5 September 2003

[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 5 September 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 5 June 2003, 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,



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  
JUN 05 2003

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], [REDACTED] SMC

Ref: (a) MSgt [REDACTED] D Form 149 of 26 May 02  
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 4 June 2003 to consider Master Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 20001001 to 20010510 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends there was a prior iteration of the fitness report that is now a matter of official record, and that that version only contained one adverse mark. He infers that after providing a statement of rebuttal and speaking with the Station Sergeant Major, the report was rewritten in its present form. To support his appeal, the petitioner furnish his own statements, a copy of the "first fitness report", a copy of the report of record, and several other items pertaining to recruiting duty.

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. Regardless of the number of prior iterations or "drafts" of a fitness report, it is the document ultimately accepted for inclusion in a Marine's record that is considered the "official" fitness report. In this case the petitioner acknowledged the adverse nature of the report and appended a statement of rebuttal. His challenges to the report were sufficiently addressed/adjudicated by Colonel [REDACTED] and then third-sighted by Major General [REDACTED]. Interestingly, nowhere in his rebuttal did the petitioner mention the prior version of the report.

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

b. Notwithstanding the petitioner's personal statements and the documentation furnished with reference (a), the Board finds nothing to show that the report at issue is not a legitimate, accurate, or fair appraisal of the petitioner's performance during the stated period. In this regard, the Board concludes the petitioner has failed to meet the burden of proof necessary to establish the existence of an error or injustice.

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