



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 1303-99
19 April 1999

SSGT [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, 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 15 April 1999. 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 22 February 1999, 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.

The Board was unable to find that your reporting senior did not counsel you about the areas of your performance with which he was dissatisfied. In any event, they generally do not grant relief on the basis of an absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. The Board was unable to find that your marks were based on a "personal disagreement" you had with your reporting senior. Finally, they were unable to find that the wrong officer acted as your reviewing officer on the contested fitness report for 1 October to 16 December 1996.

In view of the above, 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

1203-99

IN REPLY REFER TO:
1610
MMER/PERB
FEB 26 1999

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, [REDACTED], USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 2 Nov 98
(b) MCO P1610.7D
(c) MCO P1610.7D w/Ch 1

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 12 February 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 950617 to 951228 (TD) -- reference (b) applies
- b. Report B - 961001 to 961216 (CH) -- reference (c) applies

2. The petitioner contends that both reports are inconsistent with reporting procedures in that the Reporting Senior never counseled him on his dissatisfaction with areas of performance (i.e., the items in Section B wherein he was marked "excellent"). With specific regard to Report B, the petitioner alleges that Captain [REDACTED] should have functioned as the Reviewing Officer, vice First Lieutenant [REDACTED]. To support his appeal, the petitioner furnishes copies of the fitness reports at issue, as well as subsequent reports.

3. In its proceedings, the PERB concluded that both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

- a. Contrary to the petitioner's beliefs and arguments, neither report reflects any "inconsistent reporting procedures." Likewise, the Board stresses that a Reporting Senior is under no obligation to grade a subsequent report in the same manner as the previous one was graded. There is no presumption of consistency -- only the individual by his or her steadfast performance can guarantee that consistency. Since each report is for a finite period, fluctuations in grades are presumed to be nothing more than a measure of degree in what areas the intensity and application of effort were required. There are simply no apparent reporting deficiencies with the petitioner's overall performance during the period covered. [REDACTED] the petitioner's

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disclaimer to detailed "counseling" on "dissatisfaction" with performance is considered without merit.

b. To justify the deletion or amendment of a performance evaluation, evidence of probable error or injustice should be produced. There is no such showing in this case.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports 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