



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 4433-99

1 October 1999

[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 removed your adverse fitness report for 17 October to 9 November 1998. The contested documentation of your relief for cause from drill instructor duty does not appear in your Official Military Personnel File, so your request for its removal could not be considered.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 September 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 (HQMC) Performance Evaluation Review Board (PERB), dated 9 July 1999 with enclosure, and the advisory opinion from the HQMC-Manpower Management Enlisted Assignment Branch (MMEA), dated 25 August 1999, a copy of which is attached. They also considered your rebuttal letter dated 15 September 1999 with enclosure.

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 warranting restoration of your drill instructor military occupational specialty (MOS) or your special duty assignment (SDA) pay. In this connection, the Board substantially concurred with the advisory opinion. They were unable to find that the conduct of the other three drill instructors who, you allege, were not relieved for cause was substantially identical to yours. In any event, they found that your relief was clearly warranted. 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

Enclosures



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

21433-96

IN REPLY REFER TO:
1610
MMER
9 Jul 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED]
[REDACTED] USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 9 Jul 99

1. As evidenced by the enclosure, PERB removed from Staff Sergeant [REDACTED] official military record, the fitness report for the period 981017 to 981109 (CD).

2. We defer to BCNR on the remainder of Staff Sergeant [REDACTED]'s requests.

[REDACTED]

Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps



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

4433-99

PLEASE REFER TO:
 1610
 MMR/PERB
 JUL 9 1999

From: Commandant of the Marine Corps
 To: Staff Sergeant [REDACTED]

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
17 Feb 99	[REDACTED]	981017 to 981109 (CD)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. Since the remainder of your requests do not fall under the purview of this Headquarters, your case is being forwarded to the Board for Correction of Naval Records (BCNR) for final resolution. Further inquiries should be directed to that agency at [REDACTED]

[REDACTED]

By direction



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

4433-99

IN REPLY REFER TO:
1610

MMEA

25 Aug 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED]
[REDACTED] USMC

Ref: (a) ALMAR 319/96
(b) ALMAR 262/97
(c) DepO 1300.3R

1. The package has been reviewed and SSgt [REDACTED] request to reinstate his 8511 [REDACTED] Special Duty Pay is not recommended.

2. The following justification is provided.

a. SSgt [REDACTED] did not complete a successful three year tour as a drill instructor. In accordance with reference (a), Marines graduating from drill instructor school on or after 12 December 1996 are required to complete a "36 month" tour. SSgt [REDACTED] graduated from drill instructor school on 18 December 1996 and was required to complete a three year tour. In accordance with reference (b) to be considered a successful tour, a Marine drill instructor must complete a minimum of 30 months to be eligible to retain the AMOS 8511. SSgt [REDACTED] was relieved for cause on 9 November 1998 and thus did not complete the minimum time required to be considered a successful tour and retain the 8511 AMOS and special duty pay, accordingly.

b. SSgt [REDACTED] relieved for cause because his Commanding Officer lost trust and confidence in his ability to train recruits properly. In accordance with reference (c), upon approval by the Commanding General of a recommendation for the relief of a drill instructor and voidance of the 8511 AMOS, an adverse fitness report will be submitted. The relief for cause was approved by the Commanding General on 23 November 1998 during a request mast proceedings and was subsequently approved by HQMC (MMEA) on 6 January 1999. The adverse fitness report submitted in accordance with orders was removed from SSgt [REDACTED]'s official military record on 9 July 1999 by PERB. The adverse fitness report was written incorrectly as it did not address the relief for cause due to "loss of trust and confidence" but instead focused on "substantiated violations of depot orders" which [REDACTED] had been found "not guilty" of at a special court martial. The removal of the adverse fitness report in no way negates the relief for cause and the resultant voidance of his 8511 [REDACTED] and special duty pay. [REDACTED] did not

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED] USMC

complete a successful tour on the drill field due to a relief for cause. His 8511 AMOS and special duty pay were voided as required.

3. Point of contact is [REDACTED]