



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

SMC
Docket No: 06467-98
29 April 1999

SGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear 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 29 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 1 September 1998, a copy of which is attached, and your letter dated 9 September 1998.

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. 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
2 NAVY ANNEX
WASHINGTON, D.C. 20380-1775

IN REPLY REFER TO:
1610
MMER/PERB
1 Sep 98

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
SERGEANT ██████████ USMC

Ref: (a) Sergeant ██████████ DD Form 149 of 8 Jun 98
(b) MCO P1610.7D

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 31 August 1998 to consider Sergeant ██████████'s petition contained in reference (a). Removal of the fitness report for the period 951002 to 951102 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that during the Land Navigation Course examination (which he failed), boxes were tampered with; thus, causing his (unfair) failure of that course. It is his position that when he solicited confirmation of his story from Staff Sergeant ██████████ the staff sergeant did not provide the Director of the SNCO Academy with correct information.

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. When the PERB first received reference (a) on 17 June 1998, the application was returned to the petitioner, encouraging him to obtain evidence to strengthen his case. That did not occur and the petitioner returned his appeal with the request that it be considered "as is."

b. Succinctly stated, the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or injustice. We also note that this was the fourth examination which the petitioner failed, an indication that (as reported) there was difficulty in assimilating academic instruction. To his credit, however, the petitioner later returned to the SNCO Academy and successfully completed the course.

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

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Sergeant [REDACTED]'s official military record.
5. The case is forwarded for final action.

[REDACTED]

SEN
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps