

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



Dear Staff Sergeam

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 OQUARTERS UNITED STATES MARINE CORPS 3280 RUSSELL ROAD QUANTICO, VIRGINIA 22134-5103

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 RODNEY B.

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

- 1. As evidenced by the enclosure, PERB removed from Staff Sergeant official military record, the fitness report for the period 981017 to 981109 (CD).
- 2. We defer to BCNR on the remainder of Staff Sergean requests.

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

WARPLY REFER TO: MMER/PERB

From: Commandant of the Marine Com

To:

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:

Date of Report

Reporting Senior

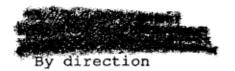
Period of Report

17 Feb 99



981017 to 981109 (CD)

- 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.
- 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 Further inquiries should be directed to that agency resolution.



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

MMEA 25 Aug 99

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

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGE

Ref: (a) ALMAR 319/96

- (b) ALMAR 262/97
- (c) DepO 1300.3R
- 1. The package has been reviewed and SS request to reinstate his 8514 Special Duty Pay is not recommended.
- 2. The following justification is provided.
- a. SSchool 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 Praduated from drill instructor school on 18 December 1990 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. SSchool 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. SS 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 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 ad 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 85 and special duty pay.

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT DANTZLE 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

