



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

SMC
Docket No: 00767-01
14 June 2001

SGTMAJ [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 14 June 2001. 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 25 January 2001, 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,

W. DEAN PFEIFFER
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
25 JAN 2001

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 MAJOR [REDACTED] USMC

Ref: (a) SgtMaj [REDACTED] s DD Form 149 of 27 Apr 00
(b) MCO P1610.7E

Encl: (1) Completed Fitness Report 981001 to 990930 (AN)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 2 November 2000 to consider Sergeant Major [REDACTED] s petition contained in reference (a). Removal of the Reviewing Officer's comments/marks from the fitness report for the period 981001 to 990930 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that the Reviewing Officer had observed him for less than four months when he provided his commentary on the report. He observes that the Reviewing Officer was located at Parris Island, South Carolina, some 300 miles from the Recruiting Station in Raleigh, North Carolina, where the petitioner was stationed. This, he believes, constitutes insufficient time to provide a fair evaluation.

3. In its proceedings, the PERB concluded that:

a. The petitioner's assertion that the Reviewing Officer had insufficient time to warrant an observation is incorrect. Reference (b) stipulates that the detailed observations rendered by Reporting Seniors should normally be for periods of 90 days or more. That provision, however, does not preclude any reporting official from rendering observed reports for shorter periods, especially when they believe the performance was significant enough to warrant comment. Certainly a period of approximately four months, in a high visibility assignment such as a Recruiting Station Sergeant Major, would be ample opportunity for the Reviewing Officer to assess the petitioner's performance. To this end, the Board concludes the petitioner has failed to meet the burden of proof necessary to constitute an error or injustice.

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b. The Board finds that the overall tenor of the Reviewing Officer's comments are such that the petitioner should have been afforded an opportunity to acknowledge their content and respond. Owing to the relative recency of the report at the time reference (a) was first considered by the PERB (13 months), the Board found that referring those comments would be a viable option.

c. All referral action, to include Third Officer Sighting, has been accomplished. The Board finds the report should now stand on its own merit.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as reflected in the enclosure, should remain a part of 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