



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

SMC  
Docket No: 02972-01  
21 June 2001

SSGT [REDACTED] USMC

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 modified the contested fitness report for 9 June to 19 August 1997 by directing that the following be removed from the reviewing officer's comments: "After a longer baseline of observation and much closer scrutiny, I am convinced that my previous RevO [reviewing officer] comments -- based on thirty days of personal observation and vastly conflicting reports from MRO [Marine reported on]'s enlisted and officer leadership -- were off target."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 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 10 April 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.

The Board did not find the reporting senior's comments to be vague or ambiguous; they likewise found no inconsistency between the marks and comments. The Board was unable to find you were not adequately counseled about your performance. In this regard, they noted that counseling takes many forms, so the recipient may not recognize it as such when it is provided. The Board found the reviewing officer and third sighting officer adequately

performed their respective functions; they did not find that the reviewing officer added new adverse information warranting referral to you. They were unable to find the reporting senior's unfavorable comments resulted from "personality problems" between you and the reporting senior and/or reviewing officer, as you allege. The Board was not persuaded that the reporting senior erred in stating you were "relieved" from a corporal's billet by reason of unprofessional attitude. You allege the statement, attributed to you by the reporting senior, to the effect there is no future in the Marine Corps, was taken out of context and misconstrued; however, you do not deny having made such a statement. Considering your position about the context and intent of this statement, the Board found noting objectionable in the reporting senior's having noted it as an indication of questionable loyalty. They found the reviewing officer permissibly referred to the preceding fitness report in stating you were more responsible for personality conflicts than he had originally believed, and that you tried to falsely discredit and undermine your reporting seniors. Finally, documentation with your letter of 9 May 2001 did not convince the Board you were victim of discrimination. While the investigation of your equal opportunity complaint did find you were humiliated on one occasion and counseled more often than anyone else in the command about your appearance (an area in which the contested fitness report marked you "outstanding"), the investigation did not find discrimination.

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

IN REPLY REFER TO:  
1610  
MMER/PERB  
10 APR 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  
STAFF SERGEANT [REDACTED], USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 3 January 2001  
(b) MCO P1610.7D w/Ch 1-3

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 4 April 2001 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970609 to 970819 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the report has been incorrectly classified as a "transfer" report; that it should have been a "not observed" appraisal for the reasons set forth in her letter appended to reference (a). Specifically, she cites the short period of observation, the overall inaccurate assessment of her performance during the stated period, and the Reporting Senior's abuse of her discretionary authority by acting in an arbitrary and capricious manner. To support her appeal, the petitioner furnishes a copy of the fitness report at issue, a copy of Page 2 from her Service Record Book, and statements from Gunnery Sergeant [REDACTED] and [REDACTED].

3. In its proceedings, the PERB concluded that, with one minor exception, the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Other than being a more detailed statement, the petitioner's narration in reference (a), of the events and circumstances during the reporting period, are precisely the same as those which she provided in her statement of rebuttal. At the time the report was reviewed by both the Reviewing Officer and Third Sighting Officer, no doubt was left as to the accuracy and fairness of the Reporting Senior's evaluation.

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
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STAFF SERGEANT [REDACTED] [REDACTED] USMC

b. While the Board notes that the reporting period was less than the 90 days of observation *suggested* in reference (b), the Reporting Senior was well within her rightful prerogative in opting to submit an observed appraisal. This is especially relevant given the overall tenor of the report and is in full compliance with the spirit and intent of reference (b).

c. The petitioner's inference that she should not have received a "transfer" (TR) report is incorrect. She was being *transferred* to a completely different job and Reporting Senior. Consequently, a "TR" report was proper.

d. Notwithstanding the advocacy letters furnished by Gunnery Sergeants [REDACTED] the Board finds nothing in reference (a) to show the report is anything other than a fair, accurate, and objective evaluation of the petitioner's demonstrated performance and characteristics during the stated period.

e. The one item to which the Board objects is a statement contained in the Reviewing Officer's remarks where he refers to a prior reporting period. While the Board is sure he made such a statement with the intention of capturing the petitioner's actual performance and demeanor, it is nevertheless viewed as inappropriate. We have, therefore, directed elimination of the offending verbiage (to wit: "After a longer baseline of observation and much closer scrutiny, I am convinced that my previous RevO comments - based on thirty days of observation and vastly conflicting reports from MRO's enlisted and officer leadership - were off target.").

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as modified, should remain a part of Staff Sergeant [REDACTED] official military record.

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

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