



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

BJG  
Docket No: 5307-01  
18 October 2001

MSGT [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Master 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 directed removal of the contested fitness report for 1 November 1987 to 29 February 1988.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 October 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 2 July 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. They were unable to find the contested fitness report for 1 October 1979 to 7 January 1980 should have been "not observed," noting that observation need not be direct. 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

Enclosure



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
2 JUL 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  
MASTER SERGEANT [REDACTED] USMC

Ref: (a) MSg [REDACTED] DD Form 149 of 17 Apr 01  
(b) MCO P1610.7B  
(c) MCO P1610.7C w/Ch 1-3

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 27 June 2001 to consider Master Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 781221 to 790331 (SA) - Reference (b) applies
- b. Report B - 791001 to 800107 (TR) - Reference (b) applies
- c. Report C - 871101 to 880229 (TR) - Reference (c) applies

2. The petitioner contends that Reports A and B should be expunged since they were written during the first trimester of her pregnancy and were unfairly influenced by the numerous physical changes she was experiencing. The petitioner indicates she informed her Reporting Senior of the situation but that her comments went unheeded. It is her belief that the derogatory markings in Report A, as well as certain comments in the narrative portion, have a direct correlation to her pregnancy. With specific regard to Report B, the petitioner states that her period of paternity leave was not annotated on the report. Concerning Report C, the petitioner challenges the manner in which she finally received a copy of the report, and the inaccuracies associated with its content. To support her appeal, the petitioner furnishes an excerpt from her Service Record Book, copies of the challenged and another fitness report, her Master Brief Sheet, and several letters of recommendation.

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MASTER SERGEANT [REDACTED], [REDACTED] USMC

3. In its proceedings, the PERB concluded that:

a. Reports A and B are both administratively correct and procedurally complete as written and filed.

(1) At the outset, the Board emphasizes that when the petitioner acknowledged the adverse nature of each report (evidence her signature in Item 24), she opted to omit statements in her own behalf. In so doing, she passively concurred in the evaluations as written and indicated she had no extenuating or mitigating circumstances to present. The issues which she now raises in reference (a) should have been surfaced when she first received the reports. To do so more than 20 years after the fact seriously lacks timeliness and credibility.

(2) There is absolutely no credible evidence to suggest that Captain Reynolds did not take the petitioner's pregnancy into consideration when he authored either report. The petitioner's belief to the contrary is viewed as nothing more than unsupported speculation. In fact, there is another comment in Report A clearly referring to performance, to wit: ". . . at times she is careless in ensuring the accuracy of her facts."

(3) The petitioner is incorrect in her statement concerning the failure of the Reporting Senior to annotate paternity leave in Report B. First, it was the petitioner who signed Item 22 acknowledging the accuracy of the information contained in Section A. Consequently, she was responsible for ensuring Item 3d reflected a bonafide period of nonavailability. Nevertheless, reference (b) specified that only 30 or more consecutive days of nonavailability were to be recorded. Hence, since the petitioner's paternity leave was from 791031 to 791129, and not 30 or more consecutive days, no recording/mention of the paternity leave was required.

b. While the advocacy letters furnished with reference (a) are complimentary and supportive, they have no bearing on the issues under consideration. Those letters were furnished to endorse the petitioner's promotion, not as vehicles to overturn certain performance evaluations.

c. The removal of Report C is warranted and has been directed.

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MASTER SERGEANT [REDACTED] USMC

- 4. The Board's opinion, based on deliberation and secret ballot vote, is that Reports A and B should remain a part of Master 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