



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

SMC  
Docket No: 06046-01  
31 August 2001

82

1STS [REDACTED] SMC  
[REDACTED]  
[REDACTED]

Dear First 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. You requested that an administrative filler replace the fitness reports for 20 December 1998 to 1 April 1999, 2 April to 1 November 1999 and 1 November 1999 to 17 April 2000, and that the reviewing officer's comment "During the last reporting period, it is clear that I undervalued the true worth of this leader" be removed from the report for 18 April to 30 September 2000.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 August 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 26 July 2001, a copy of which is attached, and your letter dated 13 August 2001.

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 was unable to find the assessment of the reviewing officer on the contested fitness report for 20 December 1998 to 1 April 1999 influenced the assessment of the new reviewing officer on the later reports at issue. As stated in paragraph 3.a of the PERB report, the applicable directive provides no minimum observation period for reviewing officers. The reviewing officer's statement, in the report for 18 April to 30 September 2000, that "During the last reporting period, it is clear that [he] undervalued the true worth of this leader" did not persuade the Board that he improperly evaluated you in the preceding report. Finally,

your allegation that the ending date of the contested report beginning 2 April 1999 was improperly changed, from 31 October to 1 November 1999, did not support a conclusion that the marks on this report were changed after you reviewed it.

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

6046-01

IN REPLY REFER TO:  
1610  
MMER/PERB  
26 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 FIRST  
SERGEANT [REDACTED] USMC

Ref: (a) 1stSgt [REDACTED] DD Form 149 of 18 May 01  
(b) MCO P1610.7E  
(c) MCO P1610.7E w/Ch 1  
(d) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 25 July 2001 to consider First Sergeant [REDACTED] petition contained in reference (a). Removal or adjustment to the Reviewing Officer's comments/assessment on the following fitness reports was requested:

- a. Report A - 981220 to 990401 (TR) - Reference (b) applies
- b. Report B - 990402 to 991101 (TR) - Reference (c) applies
- c. Report C - 991101 to 000417 (CH) - Reference (d) applies
- d. Report D - 000418 to 000930 (AN) - Reference (d) applies

**NOTE:** Petitioner asked for removal of the Reviewing Officer's comments from Report D only if corrective action is given to Reports A through C.

2. The petitioner contends that Section K on Report A should be changed to "insufficient" and the Reviewing Officer's comments eliminated. Concerning Reports B and C, the petitioner believes the Reviewing Officer's comments should be eliminated and the assessment adjusted to that reflected in Report D. He also has a concern with the ending date of "991101" on pages two through five of Report B. It is the petitioner's position that Report A did not meet the minimum observed time; that the Reviewing Officer did not take into account any of the petitioner's accomplishments when he provided his assessments on Reports B and C; that in Report D the Reviewing Officer stated he previously undervalued the petitioner's true worth. To support his appeal,

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

the petitioner furnishes his own statement and copies of the challenged fitness reports.

3. In its proceedings, the PERB concluded that Reports A through C are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. The petitioner has confused the minimum observation time for Reporting Seniors (90 days) with that for a Reviewing Officer (none specified). Attention is invited to subparagraph 4014.2a(1) of reference (b) concerning Reviewing Officer observation. Succinctly stated, there are no hard guidelines.

b. Other than the petitioner's own statement, there has been absolutely no evidence to suggest the Reviewing Officer assessments on Reports A through C are somehow inaccurate or unfair. Likewise, we find nothing to show precisely how the petitioner may have rated more than what has been recorded. To this end, the Board concludes the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice.

c. With specific regard to Report B, the Board observes that the ending date on all pages of the official report of record is "991101."

4. The Board's opinion, based on deliberation and secret ballot vote, is that the Reviewing Officers' comments/assessments on the contested fitness reports should remain a part of First Sergeant [REDACTED] official military record.

5. Since the PERB did not effect corrective action to Reports A through C, they found no objection to the verbiage contained in the comments contained in Section K4 of Report D.

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

6. 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