



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

BJG
Docket No: 6842-01
18 October 2001

MSGT [REDACTED] USMC

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 that the contested fitness report for 16 March to 21 July 1982 be modified to show the period began on 16 April 1982, rather than 16 March 1982, and directed removal of the contested report for 30 March to 23 May 1984.

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 23 August 2001, a copy of which is attached. They also considered your rebuttal letter dated 19 September 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.

Concerning the remaining fitness report at issue, the Board was unable to find item 18 was incorrectly marked to show the report was based on "daily" observation, noting that observation need not be direct. They found this report adequately identified why you were disenrolled; and they were not persuaded that the true reason for your disenrollment was your refusal to be recycled to the next class to complete an event you were unable to complete because of blisters on your feet. Finally, they noted that Marine Corps Order

P1610.7E, paragraph 5001.3.d(6)(b) states a comment to the effect that a Marine was not accepted for drill instructor school because of not meeting an ideal psychological profile is not adverse; it does not state such a comment is unacceptable.

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

6847-0

IN REPLY REFER TO:
1610
MMER/PERB
23 AUG 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) MSgt. [REDACTED]'s DD Form 149 of 4 Jun 01
(b) MCO P1610.7B w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 22 August 2001 to consider Master Sergeant [REDACTED]'s petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 820316 to 820721 (AC)
- b. Report B - 840330 to 840523 (AC)

Reference (b) is the performance evaluation directive governing the submission of both reports.

2. The petitioner contends that Report A is inaccurate and unjust in several areas. Specifically, he observes that the beginning date of the reporting period should have been "820416" as opposed to "820316." Additionally, he believes that Section C fails to specify the reason for his disenrollment from Drill Instructor School, and rather than including accomplishments, it focuses only on the failures. The petitioner also believes that Section C contains unacceptable comments concerning the psychological profile. Relative to Report B, the petitioner alleges an injustice relative to the adversity of the report. He points out that the sole reason for his disenrollment from Recruiters School was medical, and therefore should not have resulted in an adverse fitness report.

3. In its proceedings, the PERB concluded that:

- a. With one exception, Report A is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

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(1) Simply stated, the petitioner offers absolutely no substantive evidence to refute the accuracy or validity of Report A. Additionally, if he had any objections to the content of Section C, it was when he acknowledged the adverse nature of the report some 19 years ago that he should in fact have surfaced his concerns. To do so at this late date lacks timeliness and credibility as well.

(2) The petitioner is incorrect in his belief that the report contains unacceptable comments. Lacking any evidence to the contrary, the Reporting Senior's comment that competent medical authority found the petitioner to be "provisionally acceptable" for drill instructor duty appears to be grounded in fact.

(3) Based on the documentation furnished with reference (a), it is clear that the beginning date of Report A should have been "820416." The Board does not find this administrative error to invalidate the entire report and has directed the appropriate corrective action.

b. The removal of Report B is warranted and has been directed.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A, as modified, should remain a part of Master Sergeant [REDACTED]'s official military record. The limited corrective action identified in subparagraph 3a(3) is considered sufficient.

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