



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

BJG
Docket No: 8005-01
16 November 2001

SSG [REDACTED] SSMC
[REDACTED]
[REDACTED]

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 directed that the contested fitness report for 1 January to 26 February 2001 be modified, by changing the occasion from "DC" (directed by CMC) to "TR" (transfer) and changing item 6a to reflect you were the subject of commendatory material, and further obtained comments from the third sighting officer.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 November 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 12 October 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 found nothing objectionable in the reviewing officer's reference to an investigation which did not result in any punitive action against you. They were unable to find you had insufficient time to prepare your rebuttal to the contested fitness report. 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

8005-01

IN REPLY REFER TO:
1610
MMER/PERB
12 OCT 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 J [REDACTED], [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 11 Jun 01
(b) MCO P1610.7E w/Ch 1-2

Encl: (1) Completed/Corrected Fitness Report 010101-010226 (TR)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 15 August 2001 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 010101 to 010226 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is substantively inaccurate, unjust, and reflects a manipulation of the performance evaluation system. Specifically, he argues the occasion is incorrect, that a mark should be reflected in Item 6a (commendatory), that the Reviewing Officer referenced an investigation for which no findings have been given, that Captain [REDACTED] should have been the Reviewing Officer, and that there were several iterations of the report prior to the one actually submitted to this Headquarters.

3. In its proceedings, the PERB concluded that:

a. The petitioner is correct concerning the information in Items 3a (occasion) and 6a (commendatory material). Both are administrative and do not invalidate the substance of the report. We have, however, directed the appropriate changes.

b. Other than his own statement, the petitioner furnishes nothing in the way of documentary or material evidence to prove the report is either inaccurate or unjust.

c. The Board concluded there were several issues requiring resolution and found that returning the report to the Third Sighting Officer for adjudication was a viable option. This was

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considered especially relevant given the age of the report when reference (a) was first considered (less than six months). This action has been completed and Colonel [REDACTED] thoroughly addressed all of the petitioner's concerns, to include the reason Captain [REDACTED] did not function as the Reviewing Officer (i.e., relieved for cause). He has effectively dispelled any perception that the report is anything other than a fair and accurate assessment of the petitioner's demonstrated performance during the stated period.

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