



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

SMC
Docket No: 08165-00
17 August 2001

SSGT [REDACTED] MC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Staff Serg [REDACTED]

This refers 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 removal of the fitness reports for 28 April to 1 December 1995 and 19 September 1997 to 28 February 1998.

It is noted that the Commandant of the Marine Corps (CMC) has amended the contested report for 19 September 1997 to 28 February 1998 by removing the reviewing officer's comments.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 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 7 June 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 warranting further correction. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Concerning the contested report for 28 April to 1 December 1995, the Board noted you chose not to make a statement, in which you could have noted any relevant extenuating circumstances. 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

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



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

IN REPLY REFER TO:
1610
MMER/PERB
17 JUN 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) SSg [REDACTED] DD Form 149 of 1 Dec 00
(b) MCO P1610.7D
(c) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 6 June 2001 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 950428 to 951201 (CH) - Reference (b) applies
- b. Report B - 970919 to 980228 (AN) - Reference (c) applies

2. The petitioner contends that extenuating circumstances during the period covered by Report A caused her to exceed Marine Corps height/weight standards. It is her belief that the Reporting Senior should have taken this traumatic event into consideration when he completed the fitness report. Likewise, she states the Reviewing Officer obviously chose to adhere to the letter of the law in dealing with her failure to maintain established height/weight standards. Concerning Report B, the petitioner challenges the Reviewing Officer's comments and believes the inference made is that she had been on weight control continuously for a two-year period. To support her appeal, the petitioner furnishes her own statement and copies of the challenged fitness reports.

3. In its proceedings, the PERB concluded that:

- a. Report A is both administratively correct and procedurally complete as written and filed. The Board certainly understands that the petitioner's focus during the period covered by Report A may not have been on her Marine Corps duties. However, both the Reporting Senior and Reviewing Officer were required, by regulations, to document her failure

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to meet height/weight standards. Both Lieutenants [REDACTED] and [REDACTED] were obviously aware of the circumstances and there is nothing to show that either officer did not take the petitioner's situation into full consideration when they prepared the report. To this end, the Board discerns absolutely no error or injustice.

b. The Board agrees with the petitioner concerning the Reviewing Officer's comments included with Report B. They do not, however, find that complete removal of the report is warranted. Instead, they have directed elimination of only the Reviewing Officer's remarks.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A and the modified version of Report B should remain a part of Staff Sergeant [REDACTED]'s official military record. The limited corrective action identified in subparagraph 3b 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