



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

BJG
Docket No: 8255-01
6 December 2001

SSGT [REDACTED] USMC
[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 December 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 November 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.

The Board was unable to find that you were not counseled about your perceived deficiencies, or that you had inadequate time to correct them. In this regard, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. They were likewise unable to find that you were not given a chance to submit an "MRO [Marine reported on] worksheet" or that you were not given a chance to discuss your billet description with the reporting senior. They did not agree with your contention that the cited deficiencies were not significant enough to affect your leadership potential or hinder mission. They were unable to find you had no "failures during physically demanding events," as the reporting senior stated you did. Finally, they noted that the fitness report and Master Brief Sheet reflect the same officer as reviewing officer.

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

IN REPLY REFER TO:

1610
MMER/PERB
2 NOV 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) SSgt. [REDACTED]s DD Form 149 of 2 Aug 01
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 31 October 2001 to consider Staff Sergeant [REDACTED]s petition contained in reference (a). Removal of the fitness report for the period 000425 to 000717 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the deficiencies noted in the fitness report are incorrect since prior to signing the report he was never officially counseled on his physical deficiencies. He points out that he was never relieved of his duties; that he passed the required Physical Fitness Test (PFT); and that he was never given an opportunity to provide an MRO worksheet regarding his performance.

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

a. Other than offering his official statement of rebuttal, the petitioner has furnished absolutely nothing to show the report is somehow inaccurate or unjust. Likewise, there is nothing to substantiate any of his claims.

b. While the Reviewing Officer made no comment because of "insufficient" observation, the Board specifically notes that the Third Sighting Officer concurred in the overall evaluation based on his own first-hand knowledge since assuming command in June 1999.

c. It is the position of the PERB that to justify the deletion or amendment of a fitness report, evidence of probable

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error or injustice should be presented. Such is simply not the situation with this case.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports 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