



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

BJG  
Docket No: 8308-01  
20 December 2001

GYSGZ [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Gunnery 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 19 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 15 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. They were unable to find you had a personality conflict with the reporting senior. In any case, they observed, a subordinate has an obligation to get along with superiors. Your more favorable subsequent fitness reports did not convince them that the contested report was unfair or inaccurate. 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

8308-01

IN REPLY REFER TO:  
1610  
MMER/PERB  
15 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  
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt [REDACTED] DD Form 149 of 11 Sep 01  
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 14 November 2001 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 981001 to 990930 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends he was unjustly given marks of "B" in Items F1 (leadership), F2 (developing subordinates), F3 (setting the example), F4 (ensuring well-being of subordinates), and F5 (communication skills). Additionally, he points out that Section I fails to contain a "word picture" and that the absence of counseling did not afford him an opportunity to be made aware of the Reviewing Officer's comparative assessment and comments. To support his appeal, the petitioner furnishes his own statement and refers to other fitness reports that contain higher grades in the challenged areas.

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

a. Notwithstanding the petitioner's own statement, there is absolutely nothing included with reference (a) to show that the assigned grades in all of Section F are either unfair or inaccurate. This appears to be nothing more than the petitioner's uncorroborated opinion regarding the level of his performance as opposed to that of the reporting officials. In this regard, the Board concludes the petitioner has failed to meet the burden of proof necessary to establish the existence of an error or an injustice.

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b. Section I correctly **does not** contain a "word picture" of the petitioner. That requirement did not become effective until the publication of change one to reference (b) in October 1999.

c. The petitioner's inference that he should have been counseled and made aware of the Reviewing Officer's action is without merit. Simply stated, reference (b) contains no such mandate (unless new or additional adverse matter has been added).

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Gunnery Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]

D. [REDACTED]  
Chairperson, Performance  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps