



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

BJG

Docket No: 559-01  
23 February 2001

GYSGT [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 22 February 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 22 January 2001 with enclosure, 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. Accordingly, 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

EE-9-01



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
22 JAN 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], [REDACTED] USMC

Ref: (a) GySgt. [REDACTED] DD Form 149 of 25 Sep 00  
(b) MCO P1610.7E

Encl: (1) Naval Medical Clinic, Quantico Medical Review  
ICO, G [REDACTED] of 11 Dec 00

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 January 2001 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 981001 to 990620 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that given her medical condition she was unable to satisfactorily perform her assigned duties. This situation, she believes, lead to the "unjust" derogatory comments in the report. To support her appeal, the petitioner furnishes a copy of the challenged report, excerpts from her medical record, a copy of her Master Brief Sheet, a copy of her immediately preceding fitness report, and excerpts from her Service Record Book.

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. Prior to considering this case, the Board solicited an Advisory Opinion from the Naval Medical Clinic, Quantico, Virginia. Their response is contained in the enclosure and concludes "...there is insufficient evidence of any medical condition that would significantly impact this patient's ability to perform her duties." Additionally, this Board fails to find anything in the petitioner's medical documentation indicating she had any duty limitations as a result of medical problems.

b. When the petitioner acknowledged the adverse nature of the report on 20 June 1999 (evidence her signature in Section

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
GUNNERY SERGEANT [REDACTED] USMC

J2), she indicated she had attached a statement of rebuttal. However, when the Reviewing Officer conducted his action almost three weeks later, she had still not furnished her statement. In this regard, the Board emphasizes that the appeal system is not a substitute for proper resolution of an adverse report at the time the report is prepared. Succinctly stated, the petitioner should have surfaced the issues she now raises in reference (a) when she acknowledged the report. To do so at this time lacks timeliness and credibility.

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]

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

359-01



DEPARTMENT OF THE NAVY

NAVAL MEDICAL CLINIC  
3259 CATLIN AVENUE  
QUANTICO, VIRGINIA 22134-6050

IN REPLY REFER TO:

6000  
Ser 01/01138  
11 Dec 2000

From: Commanding Officer, Naval Medical Center, Quantico  
To: Headquarters, Marine Corps, Manpower and Reserve Affairs,  
Attn: [REDACTED] (MER), Marine Corps Base, Quantico

Subj: MEDICAL REVIEW ICO GYSGT [REDACTED]

1. Per your request the attached documents and medical review input are provided.
2. Review of the material indicates that the medical issues of GYSgt [REDACTED] would not have impacted work performance.
3. My point of contact is Lieutenant C [REDACTED] at [REDACTED]

[REDACTED]

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Date: 29 NOV 00  
From: [REDACTED], USNR  
To: Commanding Officer, Naval Medical Clinic Quantico  
Via: Executive Officer  
Chief of Professional Staff  
Process Improvement

Subj: MEDICAL REVIEW ICO GYSGT [REDACTED]

1. I have been asked by the Chief of Professional Staff to review the medical record of [REDACTED] and to render an opinion as to the likelihood of a medical condition having affected her job performance.
2. The patient asserts in her statement that she was "medical[ly] not qualif[ied]" from 15SEP98-15MAR99, was told on 19SEP95 that she had a "tumor or cancer" and that from 15SEP98-15MAR99 she was "in and out of medical for testing".
3. Available records indicate that on 19SEP95 she was seen in clinic and diagnosed with a reactive lymph node and that she was given the option of having it removed. The next entry is a clinic visit from 01SEP98, during which she was diagnosed with an epidermal inclusion cyst and referred to ENT for removal. She was seen by ENT 09SEP98 and underwent excision of the cyst 15SEP98. Two further entries are included, one of which involves a clinic visit on 04MAR99, when the patient complained of a 1-month history of headaches. She was diagnosed as having mixed headaches, treated with pain medication, and scheduled for a cat scan of the head. The final entry is a follow up visit on 16MAR99, where again the diagnosis was mixed headaches and the patient was referred to neurology.
4. An epidermal inclusion cyst is a minor, benign lesion of the skin that appears to have been properly treated, once indicated in SEP98. While it appears that the patient was told that the lesion was likely a reactive lymph node in 1995, there is no documentation of any discussion of "tumor or cancer". Furthermore, there is no documentation that the patient was ever found medically unqualified for duty. It does appear that the patient was seen twice in MAR99 for mixed headaches of 1-month duration, underwent CT scan, and was referred to neurology. Documentation of this workup was not included for review.
5. Based on review of available documentation, there is insufficient evidence of any medical condition that would significantly impact this patient's ability to perform her duties.

Very Respectfully,

[REDACTED]

LT, MC, USNR