



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

BJG
Docket No: 2809-02
12 June 2003

GYS [REDACTED] SMC
[REDACTED]
[REDACTED]

Dear Gunnery S [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 12 June 2003. 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 advisory opinion furnished by Headquarters Marine Corps, dated 26 April 2002, 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 advisory opinion. 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



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

IN REPLY REFER TO:
1070
MIFD
26 APR 2002

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED] USMC

1. Gunnery Sergeant [REDACTED] application with supporting documents has been reviewed concerning his request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 980708 from his service records.

2. MCO P1070.12J, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book (SRB) or the Marine's automated record.

3. MCO 1610.12, the U.S. Marine Corps Counseling Program states that:

a. "Counseling is that part of leadership which ensures, by mutual understanding, that the efforts of leaders and their Marines are continuously directed toward increased unit readiness and effective individual performance.

b. Increase individual performance and productivity through counseling and thereby increases unit readiness and effectiveness.

c. Counseling enhances the leader's ability to improve the junior's performance."

4. One of the many leadership tools that a commander has at their disposal is counseling and rehabilitation for their Marines. Marine Corps policy is that reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings and that the commander is authorized to document those efforts by a page 11 counseling entry per the IRAM. The Marine Corps Separation Manual, paragraph 6105, sets forth policy pertaining to counseling and rehabilitation. In cases involving unsatisfactory performance, pattern of misconduct, or other bases requiring counseling under paragraph 6105,

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED] USMC

separation processing may not be initiated until the Marine is counseled concerning deficiencies, and afforded a reasonable opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records.

5. The following comments/opinions concerning the page 11 entry dated 980708 are provided:

a. The counseling entry does meet the elements of a proper page 11 counseling in that it lists deficiencies, recommendations for corrective action, where assistance can be found, and states that Gunnery Sergeant [REDACTED] was provided the opportunity to make a rebuttal statement. Additionally, Gunnery Sergeant [REDACTED] was afforded an opportunity to annotate whether or not he chose to make such a statement and if made, a copy of the statement would be filed in his SRB.

b. Gunnery Sergeant [REDACTED] acknowledged the counseling entry by his signature, and indicated his desire "to" make a statement in rebuttal. However, Gunnery Sergeant [REDACTED] does not include a copy of the rebuttal statement in his application nor is there one on file in his OMPF and SRB.

c. Gunnery Sergeant [REDACTED] claims that the page 11 entry is in error and unjust because the entry was not "fair and consistent" is not supported by the statement from his former commander. The event, counseling, did in fact occur as attested to by the signatures of Gunnery Sergeant [REDACTED] and his former commander.

d. In the letter from Gunnery Sergeant [REDACTED] former commander, the statement "I officially counseled you on 980708", is documented evidence that counseling did occur. Additionally, the subject line of the former commander's letter, "violation of Depot Order P1515.1C", has the appearance that a more severe form of adjudication was being contemplated, however, his former commander elected to use the less severe method, a page 11 counseling entry.

e. Gunnery Sergeant [REDACTED] former commander utilized all available leadership tools as stated in paragraph 3 and 4 above, and followed proper procedures authorized by the IRAM in documenting those actions in a page 11 counseling entry. and documenting those actions by the preparation of a page 11 counseling entry.

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f. Gunnery Sergeant [REDACTED] does not contest and refute the page 11 entry.

g. Gunnery Sergeant [REDACTED] former commander utilized all available leadership tools

h. Gunnery Sergeant [REDACTED] former commander followed all prescribed policies and procedures set forth in the IRAM.

i. The fact that Gunnery Sergeant [REDACTED] former commander "handled further such deficiencies in a different manner" does not negate the fact that official counseling did occur for this incident.

6. In view of the above, it is recommended that:

a. The Board for Correction of Naval Records disapprove Gunnery Sergeant [REDACTED] request for removal of the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 980708 from his service records.

b. If the Board for Correction of Naval Records finds that Gunnery Sergeant [REDACTED] records are in error or an injustice was committed, direct that the Administrative Remarks (1070) NAVMC 118(11) page 11 entry dated 980708 be removed from his service records.

7. Point of contact is [REDACTED] DSN: 278-9049

[REDACTED]

Head, Manpower Information Systems Field Support Branch, Manpower Management Information Systems Division