



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

BJG  
Docket No: 3826-99  
4 January 2002

MR [REDACTED]  
[REDACTED]  
[REDACTED]

Dear [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. You requested, in effect, removal of your special court-martial conviction of 6 December 1996, and your service record page 11 ("Administrative Remarks (1070)") entries dated 9 October 1996 and 9 February 1997. Your request to remove your court-martial conviction was not considered, as this is not within the authority of the Board for Correction of Naval Records.

A three-member panel of the Board, sitting in executive session, considered your application on 3 January 2002. 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 opinions furnished by Headquarters Marine Corps dated 29 December 1999 and 10 January 2000, copies of which are 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 opinions. They were unable to find that your prosecution or the contested page 11 entries were in reprisal for your having requested mast, or for any other effort you made to seek redress for perceived grievances. 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

Enclosures

3826-99



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

IN REPLY REFER TO:  
5354  
MPE  
29 DEC 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: REVIEW OF BCNR APPLICATION IN THE CASE OF FORMER STAFF  
SERGEANT [REDACTED]

Ref: (a) BCNR application dtd 2 Dec 99  
(b) SSgt Ingram request dtd 10 Jun 99

1. As requested, the following opinion(s) are provided concerning the BCNR complaint of [REDACTED]. A review of the allegations identified in reference (b), and our records concluded that [REDACTED] allegations of discrimination were ordered investigated by the Commanding General, Marine Corps Base Camp Pendleton, California. As part of the Commanding General's commitment to ensure Marines of his command were treated fairly, he ordered a second investigation. Both investigations concluded that no evidence of racial prejudice or bias were a factor in [REDACTED] actions. The allegations of discrimination were considered unsubstantiated by the Commanding Officer of Security Battalion.

2. It is recommended that any additional documents by SSgt [REDACTED] may have which prove discrimination was factor be forwarded to the Manpower Equal Opportunity Branch Headquarters Marine Corps 3280 Russell Road, Quantico, Virginia 22134-5103 for review or otherwise this case unsubstantiated and closed.

3. Point of contact: [REDACTED]

Colonel, U.S. Marine Corps  
Head, Manpower  
Equal Opportunity Branch  
Manpower Plans and Policy  
Division

3876-99



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

IN REPLY REFER TO:

1070

MI

10 JAN 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

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

1. We reviewed former Staff Sergeant [REDACTED]'s application concerning his request for removal of the Administrative Remarks page 11e entry dated 961009 and page 11f entry dated 4Feb97 from his service records.

2. MCO P1070.12H, 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 and will be useful to future commanders.

3. The following comments concerning the Administrative Remarks page 11e entry dated 961009 are provided:

a. 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 entry 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, 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. All reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings.

b. The commander determined that the information contained in the page 11 entry was of permanent value to former Staff Sergeant [REDACTED] career, thereby documenting these events per the provisions of the IRAM.

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

c. The counseling entry meets the elements of a proper page 11 counseling in that it lists specific deficiencies and recommendations for corrective action, where assistance can be found and state that the Marine was provided the opportunity to make a rebuttal statement. The Marine must annotate whether or not they choose to make such a statement and if made, a copy of the statement is filed in the service record. Former Staff Sergeant [REDACTED] acknowledged the counseling entry by his signature and further chose to make a statement in rebuttal. A counterentry follows, dated 961119, indicating that he "failed to make a rebuttal statement" within the prescribed time frame of "5 working days", which he acknowledges he was informed of.

d. Former Staff Sergeant [REDACTED] does not refute the contents of the page 11e entry in support of his request for removal from his service records.

e. Former Staff Sergeant [REDACTED] does not provide documentation or statements in support of his request for removal from his service records.

4. The following comments concerning the Administrative Remarks page 11f entry dated 4Feb97 are provided:

a. MCO P1070.12H, paragraph 4001.4d(2) authorizes commanders to make changes or corrections to entries on page 11 by counterentry.

b. The counterentry meets the elements of an appropriate "methods of correction" entry per the dictates of the IRAM.

c. The counterentry was directed by former Staff Sergeant [REDACTED] Commanding General.

d. Former Staff Sergeant [REDACTED] refused to acknowledge this change by not signing the page 11 counterentry dated 970206.

5. A review of former Staff Sergeant [REDACTED] Official Military Personnel File (OMPF) was conducted and the following additional comments are provided:

Subj: BCNR APPLICATION IN THE CASE OF FORMER STAFF SERGEANT  
[REDACTED] SMC

a. Former Staff Sergeant [REDACTED] reporting senior in the Personnel Evaluation System (PES), First Lieutenant (1stLt) D. S. [REDACTED] wrote an outstanding fitness report (conduct and performance evaluation) during the reporting period 950908 to 951231, which is in contradiction to his claims against 1stLt [REDACTED]

b. Former Staff Sergeant [REDACTED] reporting senior in the PES, First Lieutenant [REDACTED] wrote an excellent fitness report (conduct and performance evaluation) during the reporting period 960101 to 960531, which is in contradiction to his claims against 1stLt [REDACTED]. It is noted that his reviewing officer (who was also his commanding officer), Colonel [REDACTED] certified that his conduct and performance was of a lessor level.

c. Former Staff Sergeant [REDACTED] first fitness report (conduct and performance evaluation) he received that was less than excellent was for reporting period of 960601 to 961231, which reflects the results of a Special Court-Martial he was a subject of. He submitted a statement in rebuttal of this evaluation, however, during the third officer review (his Commanding General, as required per Marine Corps Order (MCO P1610.7D), it was determined that the statement was not in accordance with the requirements of Article 1122, U.S. Navy Regulations and paragraph 5003.2 of MCO P1610.7D. Again former Staff Sergeant [REDACTED] refused to rewrite his statement, as well as not initial or sign any documents pertaining to this matter.

6. In view of the above, it is recommended that former Staff Sergeant [REDACTED] request for removal of the Administrative Remarks page 11e entry dated 961009 and page 11f entry dated 4Feb97 be disapproved.

7. Point of contact [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] RI  
Head, Field Support Branch  
Manpower Management Information  
Systems Division