



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

BJG
Docket No: 5588-01
21 March 2002

SGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear 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 21 March 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 13 July 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. 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

5588-01

IN REPLY REFER TO:

1610

MMER/PERB
13 JUL 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
SERGEANT [REDACTED] USMC

Ref: (a) Sergeant [REDACTED] DD Form 149 of 24 Apr 01
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 11 July 2001 to consider Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 990521 to 990615 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the report on file in his official military record is different from the one he acknowledged and signed; that changes were made without his knowledge. To support his appeal, the petitioner furnishes copies of the report he received from the Reporting Senior and at the time of counseling, and a copy of the report of record.

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. There is no way to determine if the petitioner was provided a personal copy of the report on file. One thing is certain though; the petitioner was definitely aware of the adverse nature of the report and opted to omit a statement in his own behalf. Even without the markings and comments the petitioner alleges were added, the report would still be adverse.

b. While none of the PERB members claim to be handwriting analysts, a review of the report of record and the one provided as enclosure (1) to reference (a) reveals the following dissimilarities:

(1) Item J2. On the report of record, the petitioner's signature clearly encroaches on "(Signature of Marine Reported

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On)"; on the report at enclosure (1) to reference (a), the signature is on the line. On the report of record, the "X" in "I have no statement to" exceeds the lines of the block in the upper left corner; it does not on the report at enclosure (1) to reference (a).

(2) Item K6. The same discrepancies appear in this item as identified in subparagraph 3b(1).

c. As a matter of information, a member of the Board's staff telephonically contacted all three officers involved in the fitness report (CWO [REDACTED], Captain [REDACTED] and Colonel [REDACTED]. Both [REDACTED] and Captain [REDACTED] "recall" the petitioner signing the official report of record. However, most significant is Colonel [REDACTED] insight. He stated he personally called the petitioner into his office to counsel and discuss the situation. At that time Colonel [REDACTED] was in possession of the fitness report being challenged. Succinctly, it contained a mark of "A" in Item F3, comments in the "Justification" block at the bottom of page 3-5, and a second comment in Section I (i.e., "Specifically, MRO failed to pay his wife the proper support money.").

d. Contrary to the petitioner's statement, the Board concludes that he did, in fact, view and sign the report currently on file at this Headquarters.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of 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