



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

en

BJG
Docket No: 7142-01
22 February 2002

GYSGT [REDACTED] JSMC
[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 21 February 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 6 September 2001, and the PERB chairperson electronic mail dated 3 October 2001, copies of which are attached. They also considered your rebuttal letters dated 25 September 2001, with enclosure, and 15 January 2002.

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 the officer who signed the contested fitness report was not your proper reporting senior. They were likewise unable to find this officer had insufficient opportunity to observe you, noting that observation need not be direct. As each fitness report is for a specific period, your having received a more favorable report for the immediately preceding period, from the same reporting senior for your performance of the same job, did not convince them that the contested report was invalid. 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



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

0744-10

IN REPLY REFER TO:
1610
MMER/PERB
6 SEP 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 M [REDACTED] USMC

Ref: (a) GySgt [REDACTED] DD Form 149 of 13 Jul 01
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 5 September 2001 to consider Gunnery Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 991001 to 000731 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that Lieutenant Colonel [REDACTED] was not his closest supervisor ("working senior") and should not have functioned as the Reporting Senior. To support his appeal, the petitioner furnishes a copy of the 2d MAW Command Chronology from 1 January to 30 June 2000, his own statement, and letters from Lieutenant Colonel [REDACTED] and [REDACTED].

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. The advocacy letters furnished with reference (a), although complimentary, were obviously intended to endorse the petitioner's qualifications for promotion to the grade of Master Sergeant, not to invalidate the challenged fitness report. In this regard, we specifically note that Lieutenant Colonel [REDACTED] never stated he was or should have been the Reporting Senior. All he said was that he worked closely with the petitioner.

b. The simplified flow chart included with reference (a) does not somehow lend credence to the petitioner's contention that Lieutenant Colonel [REDACTED] should not have been the Reporting Senior. In this regard, the Board invites attention to paragraph 2002 of reference (b), the applicable portion of which is quoted verbatim: "The reporting chain will not always equate

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
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to the formal chain of command because of operating requirements and organizational structures."

c. Notwithstanding the foregoing, the Board observes that the petitioner's immediately preceding fitness report (981001-990930 (AN)) was also authored by Lieutenant Colonel [REDACTED] yet no challenge is being made to that evaluation.

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

Colston, Shirley M

From: Hayman GS-14 Dahrie J [HaymanDJ@manpower.usmc.mil]
Sent: Wednesday, October 03, 2001 10:36 AM
To: Shirley Colston (E-mail)
Subject: GYSGT [REDACTED] USMC

Importance: Low

Shirley:

I've reviewed LtCol [REDACTED] letter where he indicates he should have been GySgt [REDACTED] Reporting Senior. With all due respect to him, I decided we should also hear from the Reporting Senior of record, [REDACTED].

I've just spoken with [REDACTED] and he relayed the following:

-- Since LtCol [REDACTED] was literally bogged down with work [REDACTED] agreed to allow GySgt [REDACTED] to assist him.

-- A conscious decision was made to not transfer [REDACTED] to LtCol [REDACTED] for two reasons. First, it was for a short period. Second, and more significant, the billet which [REDACTED] would be filling as LtCol [REDACTED] assistant was a Corporal's [REDACTED]. LtCol [REDACTED] stated there would be no reason to evaluate the Gunny filling a Corporal's billet.

-- The area in which [REDACTED] worked while assisting [REDACTED] was no more than 30 feet from LtCol [REDACTED] (a mere stairwell away). LtCol Babb not only saw GySgt [REDACTED] daily, but the Gunny continued to perform MAINT ADMIN LOGMAT INSPECTION work (the fitness report duty assignment).

-- I [REDACTED] briefed and counseled [REDACTED] on the fitness report. However, a few months later the gunny complained about the report to the Sergeant Major. [REDACTED] again spoke with GySgt [REDACTED] clarified/explained the marks and comments.

For all of the above reasons, and especially since LtCol Babb was GySgt [REDACTED] Reporting Senior on the immediately preceding fitness report, I decline to have the PERB reconsider it's decision.

If you need anything else, please let me know.

V/R,

[REDACTED] man
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 Review Branch (MMER)
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