



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

BJG
Docket No: 8768-01
30 January 2002

SSG [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff Ser [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 25 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 21 December 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

8768-01

IN REPLY REFER TO:

1610
MMER/PERB
21 DEC 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 STAFF
SERGEANT [REDACTED] USMC

Ref: (a) SSgt [REDACTED] Form 149 of 2 Oct 01
(b) MCO P1610.7E w/Ch/1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 19 December 2001 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 981001 to 991231 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends he was unjustly reported as failing the second half Physical Fitness Test (PFT) during calendar year 1999. He points out that the command was aware of the injury he sustained to his left knee, resulting in damage to the ligaments and cartilage. To support his appeal, the petitioner furnishes his own detailed statement, copies of medical documentation, and other items of correspondence he believes to be pertinent.

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. While the petitioner may have had on-going problems with his left knee, he admittedly made a conscious decision to not seek medical attention until after he failed the PFT. As succinctly stated by the Third Sighting Officer (Color [REDACTED]) the petitioner not only waited until the last day possible for score to perform the PFT, but he had more than sufficient time to run a "practice PFT."

b. The issue here is the proper recording of a bona fide PFT failure. The failing was his, not that of either the command or the military medical system.

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