



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

BJG
Docket No: 10853-02
29 January 2003

S [REDACTED] USMC
[REDACTED]
[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 24 January 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 19 December 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 report of the PERB. They particularly noted that you do not assert you were unaware of the contents of the contested fitness report, or unaware of your right to make a statement in rebuttal. Therefore, even if the signature in section J.2 of the report were, as you allege, a forgery, this would not be a material error warranting removal of the report. 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

Enclosure



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

IN REPLY REFER TO:

1610
MMER/PERB
DEC 19 2002

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 2 Jul 02
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 December 2002 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 990209 to 990331 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the signature in Item J2 of the report is not his.

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. A member of the PERB staff telephonically contacted the Reporting Senior (Capt [REDACTED]) and inquired as to the petitioner's allegation. Captain [REDACTED] was emphatic that the petitioner signed Item J2 of the report in her presence.

b. To further investigate the petitioner's contention, the PERB requested the assistance of the Criminal Investigation Division, Twentynine Palms, California in obtaining a handwriting analysis. The Naval Criminal Investigative Service Regional Forensic Laboratory, San Diego, California, conducted said analysis. In their report of 11 December 2002, the NCIS Laboratory concluded that the petitioner "very probably signed his own name" on the challenged fitness report. They further opined that a more definitive opinion could have been rendered if the original document was still available (which it is not).

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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 Sergeant [REDACTED]'s official military record.

5. Owing to the fact that the NCIS report may not be disclosed without the consent of that agency, a copy of their Report of Analysis and the petitioner's statement provided to CID are not included herein. They are, however, maintained in the PERB offices and may be viewed by a member of the BCNR staff.

6. 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