



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

BJG
Docket No: 4375-03
17 September 2003

CWG [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Chief Warrant Officer [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 11 September 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 20 May 2003, a copy of which is attached.

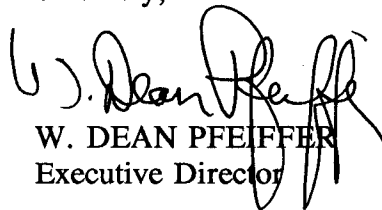
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

Concerning your contention that you were never counseled for unsatisfactory work performance, the Board noted the reviewing officer (RO) states your oral reports to your reporting senior indicated you were doing your job properly, but "It was clear after [you] conducted [your] inventory that the information in [your] reports was incorrect." The Board was unable to find an investigation was needed to obtain information on which to base your fitness report. The Board likewise was unable to find that your relief was hasty, or that it was not based on facts. In this regard, the Board found nothing objectionable about the RO's use of phrases like "in my opinion" and "things that [you] did that possibly contributed to these losses," given the context in which these phrases appear. Finally, the Board found no requirement for a Marine Corps Order to be cited in connection with every statement reflecting a deficiency in your performance.

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
 MMR/PERB
 MAY 20 2003

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 [REDACTED]
 [REDACTED] USMC

Ref: (a) CWO2 [REDACTED] DD Form 149 of 15 Feb 03
 (b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 15 May 2003 to consider CWO-2 [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 010901 to 020214 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is an unjust and inaccurate evaluation of his performance during the stated period. To support his appeal, the petitioner provides his own statement and refers the Board to the contents of his official rebuttal to the fitness report.

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 report under consideration was the result of unsatisfactory job performance following the petitioner's relief. The adversity was based, in part, on the petitioner's failure to initiate corrective action to prevent supply losses within the unit. In his rebuttal, the petitioner concedes to the fact that the inventory losses occurred. However, in mitigation, he points to the overall size of the unit account, implying that the losses were minor in nature and did not justify his relief or the adverse fitness report.

b. In his statement included with reference (a), the petitioner has done nothing more than reiterate the same arguments he surfaced in the detailed statements of rebuttal to the fitness report. Significantly absent, however, is any

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF CWO2
[REDACTED] USMC

documentation to suggest that the points raised by the Reporting Senior or Reviewing Officer were factually inaccurate. Likewise, we find no evidence of bias or unfairness on the part of any of the reporting officials. Succinctly stated, it appears that the petitioner's concerns were meticulously and thoroughly adjudicated by Lieutenant Colonel [REDACTED]. Equally important, the actions of both the Reporting Senior and Reviewing Officer were fully concurred in by the Third Sighting Officer, Brigadier General [REDACTED].

c. It is the position of the PERB that to justify the deletion or amendment of a fitness report, evidence of probable error or injustice should be produced. Such is not the situation in this case.

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

5. The case is forwarded for final action.

[REDACTED]

Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps