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

JSR  
Docket No: 6583-08  
31 July 2008

[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.

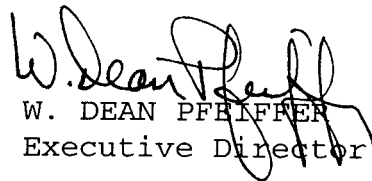
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 31 July 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 undated report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), a copy of which is attached, and your letter dated 17 July 2008.

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. The Board found the reviewing officer took timely action on the contested fitness report, signing it on 22 July 2003. As noted in the PERB report, the third sighting was accomplished by HQMC after the report had been received there without a third sighting. Since the Board found no defect in your performance record, it had no grounds to remove your failures of selection to staff sergeant or grant you remedial consideration for

promotion. 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 PFIEFFER  
Executive Director

Enclosure



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

IN REPLY REFER TO:

1610  
MMER/PERB

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  
[REDACTED]

Ref: (a) [REDACTED] DD Form 149 of 20 Mar 08  
(b) MCO P1610.7E w/Ch 1-8

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 25 June 2008 to consider [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 20030609 to 20030716 (FD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner received this adverse fitness report upon being disenrolled from the Staff NCO Academy's Sergeants' Course for demonstrating poor leadership and judgment by plagiarism. He argues that the report is incorrect, inaccurate and in violation of reference (b). In support of his appeal, he submitted a personal statement and a copy of his fitness report inventory sheet.

3. In its proceedings, the Board concluded that the report is administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. The petitioner argues the circumstances leading to the adversity of this report. However, he provides no proof to support his side of the story regarding the plagiarism. In addition, the Board notes that the petitioner accepted full responsibility for his actions in his rebuttal. If he did not agree with the report, he should have made these arguments in his rebuttal which would have allowed the reviewing officer and/or third officer sighter to properly adjudicate it.

b. He notes procedural errors in the completion and submission of this report; however, the Board does not concur. He alleges injustice because the report was administratively

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[REDACTED]

third officer sighted by this Headquarters. However, since he did not dispute the facts of the report, no adjudication was necessary. The third officer sighter merely verified the administrative correctness of the report.

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

5. The case is forwarded for final action.



FRANCES S. POLETO  
Chairperson, Performance  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps