



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 230-99
19 April 1999

SSG [REDACTED] USMC
[REDACTED]

Dear S [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, 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 15 April 1999. 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 11 January 1999, 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 were unable to find that you were unfairly evaluated because you were perceived as having a problem with weight control. In this regard, they noted that your contested fitness report is marked "excellent" in "personal appearance" (item 14b). 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

230-99

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

IN REPLY REFER TO:
1610
MMER/PERB
JAN 11 1999

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
SERGEAN [REDACTED], USMC

Ref: (a) SSgt [REDACTED]'s DD Form 149 of 27 Aug 98
(b) MCO P1610.7D w/Ch 1-3

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 6 January 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970101 to 971017 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner disclaims counseling concerning performance deficiencies, insufficient time between counseling and receipt of the adverse fitness report at issue, and inappropriate remarks concerning the JAG investigation. To support his appeal, the petitioner furnishes his own statement, a copy of a prior fitness report, a copy of an official counseling entry, a copy of a prior version of the fitness report at issue (containing a different ending date), and a letter from First Sergeant [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. Per subparagraph 2003.3f of reference (b), performance counseling is to be continuous throughout the reporting period and the petitioner does not substantiate that he was not counseled by his Reporting Senior as deficiencies occurred. The timing of the Page 11 entry does not mean or otherwise prove that prior counseling was not conducted. Lieutenant Colonel [REDACTED] could not have counseled the petitioner on the deficiencies uncovered by the JAG Manual supply investigation since he apparently had no previous certainties of those specific findings.

b. The petitioner fails to prove the JAG Manual investigation did not find him negligent or at fault. Certainly poor management of his supply account, as concluded in the investigation and **correctly** recorded by the Reporting Senior, is a

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reportable deficiency. In his own rebuttal, the petitioner acknowledged the facts of the adversity in the report, offered opinions in extenuation and mitigation, and pledged in his concluding comments to correct his substandard performance.

c. The unsubstantiated accusations made by First Sergeant [REDACTED] fail to identify, by name, the "leaders" who allegedly treated the petitioner in an unjust manner. Simply stated, his allegations have no credibility.

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