



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

SMC  
Docket No: 04706-99  
7 October 1999

SSGT [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Staff 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. You requested removal of three fitness reports, for 4 October to 31 December 1994, 1 January to 1 May 1995, and 22 May to 31 December 1997.

It is noted that the Commandant of the Marine Corps (CMC) has removed the two contested reports for 1 January to 1 May 1995 and 22 May to 31 December 1997.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 October 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 16 July 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 warranting removal of the remaining contested fitness report for 4 October to 31 December 1994. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Accordingly, your application for relief beyond that effected by CMC 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

4706-99



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

1610 REPLY REFER TO:  
MMER/PERB  
JUL 16 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  
SERGEANT [REDACTED] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 1 Apr 99  
(b) MCO P1610.7C w/Ch 1-6  
(c) MCO P1610.7D  
(d) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 14 July 1999 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 941004 to 941231 (AN) -- Reference (b) applies
- b. Report B - 950101 to 950501 (TR) -- Reference (c) applies
- c. Report C - 970522 to 971231 (AN) -- Reference (d) applies

2. The petitioner contends that all three reports represent an "injustice" to his career. It is his position that his First Sergeant advised him that he had no right to submit statements of rebuttal since none of the reports is adverse. To support his appeal, the petitioner furnishes his own statement, a letter from First Lieutenant [REDACTED] (endorsing remedial promotion), and copies of a Navy/Marine Corps Achievement Medal Award and a Certificate of Commendation.

3. In its proceedings, the PERB concluded that:

a. Report A is administratively correct and procedurally complete as written and filed. Contrary to the petitioner's statement and beliefs, and notwithstanding the documentation furnished with reference (a), the Board finds nothing to prove that the report is anything other than a fair, accurate, and unbiased evaluation of his performance during the stated period. In this regard, we specifically note that both the Navy/Marine Corps Achievement Medal and Certificate of Commendation speak of accomplishments subsequent to the ending date of Report A and have no bearing on that appraisal. Likewise, Lieutenant [REDACTED] letter speaks of performance for only a six-month period (June 1996-January 1997) outside of Report A. As a final

(3) PERB

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matter, the Board discerns absolutely nothing negative or adverse in Report A. Consequently, he was correctly not required to sign Item 24 or given an opportunity to append a statement of rebuttal.

b. The removal of Reports B and C is warranted and has been directed.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A 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