



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 03739-99

30 September 1999

SSG [REDACTED] SMC

Dear Staff Serg [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.

It is noted that the Commandant of the Marine Corps (CMC) has directed filing a memorandum to show item 17a (commendatory) of the contested fitness report for 1 January to 11 September 1996 should have been marked "Yes" in light of your receipt of the Navy and Marine Corps Achievement Medal during the reporting period.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 September 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 7 June 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 contested report. 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



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

3739-99

IN REPLY REFER TO:
1610
MMER/PERB
JUN 7 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] SMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 22 Mar 99
(b) MCO P1610.7D w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 2 June 1999 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 960101 to 960911 (CD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner objects to the manner in which the report was processed and believes he should have been afforded the opportunity to view the Third Officer sighting.

3. In its proceedings, the PERB concluded that, with one minor exception, the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Since the petitioner was the recipient of the Navy Marine Corps Achievement Medal during the reporting period, Item 17a (commendatory) should have been marked "yes" and a corresponding comment included in the Section C narrative. The Board does not find that this oversight invalidates the entire report and has directed appropriate corrective action. A Memorandum for the Record will be prepared and inserted into the petitioner's Official Military Personnel File documenting the corrections and his Master Brief Sheet will be modified accordingly. Inserting a Memorandum for the Record will alleviate the possibility of an illegible fitness report by correcting the form itself.

b. The Reviewing Officer thoroughly addressed each of the issues raised by the petitioner in his statement of rebuttal. He did not, however, introduce any new or additional adversity that had not already been surfaced by the Reporting Senior. Consequently, the petitioner was not required to sight/respond to Captain [REDACTED] comments. Likewise, there is no provision in reference (b) that allows the Marine Reported On (MRO) to view

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the actions of the Third Sighting Officer unless that individual adds new or additional adverse material. Succinctly stated, the report has been processed per the provisions of reference (b) and nothing furnished in support of the petitioner's appeal casts doubt as to the accuracy or fairness of the evaluation.

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]'s official military record. The limited corrective action identified in subparagraph 3a is considered sufficient.

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