



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 5285-99

27 September 1999



Dear Gunnery Sergeant 

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 10 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 12 August 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. Accordingly, 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

5285-99



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
AUG 12 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  
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt [REDACTED]'s DD Form 149 of 25 May 99  
(b) MCO P1610.7D w/Ch 1-3  
(c) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 11 August 1999 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). The petitioner challenges the fitness reports identified below and argues that the comments submitted by the Reviewing Officer are biased and unjust.

- a. Report A - 970407 to 971031 (AN) -- Reference (b) applies
- b. Report B - 971101 to 980930 (DC) -- Reference (c) applies

2. The petitioner contends that Lieutenant Colonel [REDACTED] comparative assessments (i.e., lower third and middle of the pack, respectively) were rendered without sufficient observation on that officer's part. It is his opinion that both analyses are prejudicial and reflected negatively against him when his record was considered by the promotion board. To support his appeal, the petitioner provides his own detailed statement and invites the Board's attention to that portion of MCO P1610.7E which delineate Reviewing Officer responsibilities.

3. In its proceedings, the PERB concluded that both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

- a. At the outset, the Board stresses that the petitioner has argued the provisions of the incorrect directive. References (b) and (c) were the applicable directives -- not MCO P1610.7E as the petitioner states. The "comparative assessment" which the petitioner describes was not a part of the references that govern the challenged fitness reports.
- b. Subparagraph 4009.2b(2) of references (b) and (c) encourages Reviewing Officers to provide not only additional

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comments on an individual's performance (if observation permits), but are also encouraged to furnish a "General Value to the Service" distribution for the Marines within the overall reviewing authority. Succinctly stated, Lieutenant Colonel [REDACTED] was within complete accord of those provisions. His limited opportunity to observe (Report A) is duly noted and his comments are viewed in that same context. To this end, the board discerns absolutely no error, injustice, or bias.

c. While the petitioner argues that the Reviewing Officer's comments are unjust and biased, he offers nothing in the way of documentation or corroboration to show that his performance was anything other than as recorded/evaluated. In this regard, we find that the petitioner has failed to meet the burden of proof necessary to merit removal of the fitness reports.

4. The Board's opinion, based on deliberation and secret ballot vote is that the contested fitness reports should remain a part of Gunnery 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