



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

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BJG
Docket No: 4233-03
15 September 2003

SSGT [REDACTED] L 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.

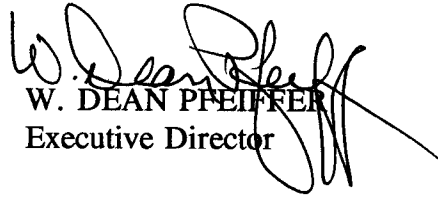
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 September 2003. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 May 2003, 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. The Board was unable to find the contested fitness report was used as a counseling document. The Board was likewise unable to find your mark of "B" (second lowest) in item F.3 was based entirely on your level of physical fitness. Finally, the Board noted that your outstanding score of "300" on the physical fitness test was documented in item 8.b. 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



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

IN REPLY REFER TO:
1610
MMER/PERB
MAY 07 2003

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) SSC [REDACTED] DD Form 149 of 29 Jan 03
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 5 May 2003 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 000706 to 001120 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is unjust and inaccurate and that the markings are not commensurate with her actual performance. To support her appeal, the petitioner furnishes her own detailed statement and letters from Gunnery Sergeant [REDACTED] and Staff 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. A review of the challenged fitness report fails to reveal any noted deficiencies or performance less than acceptable. As a result, the petitioner's claim that she should have been specifically counseled and given the opportunity to improve is not considered valid.

b. While the advocacy statements included with reference (a) are complimentary and supportive, neither person furnishing those testimonials was in a position to officially evaluate/document the petitioner's performance. Likewise, Gunnery Sergeant [REDACTED] and Staff Sergeant [REDACTED] were not in positions from which to better observe the results of the petitioner's performance; nor were they also not privy to any dialogue between the petitioner and her Reporting Senior.

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c. The petitioner's 300 Physical Fitness Test (PFT) score could have been mentioned in Section I. That, however, is not required by reference (b), and Captain [REDACTED] failure to do so does not somehow contribute to the petitioner's belief that the report is inaccurate or unfair.

d. That Lieutenant Colonel [REDACTED] opted to submit his Reviewing Officer assessment as "insufficient" was strictly his choice. Again, that action does not prove the report is unjust. Likewise, Lieutenant Colonel [REDACTED] failure to ensure submission of the report within the prescribed 30-day period does not cast doubt as to the substantive accuracy of the overall evaluation. Simply stated, the delay of just over two weeks is considered insignificant.

e. Succinctly stated, the petitioner has failed to prove that the report is either in error or unjust. More specifically, nothing furnished with reference (a) documents precisely how or why she should have rated more than what has been recorded.

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