



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

BJG  
Docket No: 1372-99  
23 April 1999

MAJ [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Major [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.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your fitness report for 29 June 1994 to 15 March 1995.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 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 24 February 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.

Regarding your contested adverse fitness report for 16 February to 15 March 1993, the Board noted that this report need not be consistent with earlier and later reports. They were unable to find that your reporting senior (RS) did not counsel you about perceived deficiencies. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided.

Concerning your contested adverse fitness report for 1 July to 29 November 1995, the Board found that the determination, in the board of flight surgeons report of 29 November 1995

(exhibit 10 to your application), that you could resume flying status did not refute your RS's nonmedical opinion that you "...should not be returned to the cockpit of an aircraft." They were not convinced that he lacked the experience or basis to express his opinion. Contrary to the PERB report, they found that you did provide some documentary evidence that your RS's attitude toward you was other than professional, specifically, the statement in the report of the board of flight surgeons that "It seems as though there is a definite [sic] personality conflict with his last executive officer..." However, the Board was unable to find the board of flight surgeons had a reliable basis for this statement. Finally, your RS's comment that you are "Believed to hold latent intelligence..." did not persuade them that he was biased against you, although they did not particularly approve of his choice of language. They felt that removing this language would not be a material correction in an otherwise adverse fitness report.

In view of the above, 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