



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

BJG
Docket No: 1106-01
8 March 2001

LTCOL [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Col [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 8 March 2001. 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 9 February 2001, 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. They found the narrative of the contested fitness report to be adequately clear. 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

1106-01

IN REPLY REFER TO:

1610
MMER/PERB
9 FEB 2001

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
LIEUTENANT [REDACTED] USMCR

Ref: (a) LtCol. [REDACTED] DD Form 149 of 19 Sep 00
(b) MCO P1610.7B w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 2 February 2001 to consider Lieutenant Colonel [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 810712 to 810731 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is inconsistent and ambiguous, especially when comparing the mark in Item 15 (General Value to the Service) with the mark of "Particularly Desire" in Item 16 (Desirability to Have Under Command). It is his position that the ambiguity of the report was such that he wasn't sure what to rebut other than the "adverse mark."

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. When the petitioner acknowledged the adverse nature of the report (evidence his signature in Item 24), he included a statement in his own behalf. In his commentary, he indicated he disagreed with the comment in Section C concerning his troop handling skills, as well as with several of the assigned Section B ratings. In the final analysis, however, the Reviewing Officer indicated that the Reporting Senior wrote reports that were "... honest and to the point." To this end, the Board discerns absolutely no material error or injustice.

b. As a matter of information, and contrary to what the petitioner indicates, there is no "adverse" mark on the report. What rendered the evaluation worthy of signature in Item 24 was the comment concerning the manner in which he handled troops.

1166-01

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L. [REDACTED] USMCR

Consequently, his statement that he could only comment on the "adverse mark" is viewed as being without merit.

c. While the petitioner now objects to a two-week report, the fact is that at the time he was in a Selected Marine Corps Reserve (SMCR) unit and the period of the report may very well have corresponded with his two-week annual training (ATD). Per the provisions of paragraph 5002, Figure 5-1, of reference (b), annual reserve reports on first lieutenants were due the end of January. The annual training duty report (SC) was due, as a separate report, unless the annual was to occur within 60 days after the ATD termination. Obviously if this were the case, the annual training report would be warranted. Although the report at issue was submitted as a change of Reporting Senior (CH), it could more appropriately have been an "SC". However, clarity some 19 years after the fact is difficult. Nevertheless it would have been an error in form, not substance.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Lieutenant Colonel [REDACTED]'s official military record.

5. The case is forwarded for final action [REDACTED]

[REDACTED]
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps