



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

BJG
Docket No: 1285-00
11 September 2000

[REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear [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. You requested removal of one of your failures by the Fiscal Year (FY) 1999 and 2000 Reserve Lieutenant Colonel Selection Boards (after having applied to this Board, you also failed by the FY 2001 Reserve Lieutenant Colonel Selection Board).

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 August 2000. 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 advisory opinions furnished by Headquarters Marine Corps dated 21 and 29 March 2000, copies of which are 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 advisory opinions, except paragraph 1.c of the opinion dated 29 March 2000. Because you were not requesting consideration by a special selection board, they found no relevance in the comments as to why you "would not rate" such consideration. Since you furnished no copy of the package you attempted to provide to the FY 1999 promotion board, this Board was unable to determine whether consideration of this package would have appreciably enhanced your competitiveness. 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

Enclosures



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

IN REPLY REFER TO:
1000
RAP-22
21 MAR 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL
RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]
[REDACTED] USMCR

Ref: (a) Title 10 U.S.C. Section 614
(b) MCO P1400.31A Marine Corps Promotion Manual, Volume
1, Officers Promotions (MARCORPROMAN VOL 1 OFFPROM)

1. We have reviewed the subject application and cannot support Major [REDACTED] request for removal of failures of selection (FOS) status with provision of the following opinions:

a. Major [REDACTED] as stated that his failure to receive notification of his eligibility for promotion consideration by the FY99 Reserve Lieutenant Colonel Promotion Board adversely impacted the timeliness of his submission and was instrumental in his subsequent non-selection. While the Marine Corps Reserve Support Command (MCRSC) generally sends out eligibility notifications, there is no regulatory requirement to do so. The courtesy advisements are an extension of MCRSC's concern and mission intent to provide support through assistance and guidance. No causal linkage is present that would relieve [REDACTED] individual responsibility for eligibility determination. Any premise that the absence of the courtesy notification negatively impacted his opportunity for promotion selection is without merit.

b. Reference (a) mandates a notice of convening and identified zones be published at least 30 days before a selection board is convened. Reference (b) further stipulates that an ALMAR be published annually identifying convening dates for selection boards 6 to 8 months prior to commencement of the board season. [REDACTED] not presented any reasoning why he could not have availed himself of the required notices or numerous other alternative informational sources. Notwithstanding his overseas posting, [REDACTED] could have solicited assistance in determining his promotion eligibility status with MCRSC at any time.

c. Cognizant of eligibility for promotion consideration for the FY00 Reserve Lieutenant Colonel Promotion Board, [REDACTED] chose not to provide a submission based on the challenges of his civilian employment and unspecified complications in his return to the United States. In doing so, he effectively limited himself regarding promotion consideration.

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]
[REDACTED] USMCR

2. No compelling evidence has been submitted that would substantiate a claim of material error that would have denied access to or negation of promotion consideration and subsequent removal of the FOSs for the FY99 and FY00 boards. Per reference (b), [REDACTED] would petition for consideration by a Special Selection Board if he ascertains that he was not otherwise properly considered. Ultimately, it is incumbent upon the individual officer to remain apprised of his or her promotion eligibility and monitor his or her personal career in the Marine Corps Reserve.

3. Reserve Affairs Division defers to the Promotions Branch (MMPR) of the Personnel Management Division for opinion and comment on the late receipt of a promotion submission.

4. Point of contact at this Division is [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]nel
U.S. Marine Corps Reserve
Deputy Branch Head, Reserve Affairs
Personnel Plans and Policy Branch,
Reserve Affairs Division
By direction



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
MANPOWER AND RESERVE AFFAIRS DEPARTMENT
HARRY LEE HALL, 17 LEJEUNE ROAD
QUANTICO, VIRGINIA 22134-5104

IN REPLY REFER TO:

1400/6
MMPR
29 Mar 00

MEMORANDUM

From: Head, Promotion Branch
To: Executive Director, Board for Correction of Naval
Records

Subj: ADVISORY OPINION FOR BCNR APPLICATION ICO MAJOR
[REDACTED] CR

Ref: (a) Title 10, U.S. Code
(b) SECNAVINST 1401.1B

1. The following facts are germane to the case:

a. [REDACTED] was considered and not selected as an in zone officer on the FY99 and an above zone officer on the FY00 USMCR Lieutenant Colonel Promotions Selection Boards.

b. Reference (a), sections 614 and 14105 require notification of officers via individual correspondence or general notice to the armed force concerned no later than 30 days prior to the date the board is to be convened. ALMAR 47/98 announced the FY99 board and MARADMIN 33/99 announced the FY00 board in compliance with reference (a). These messages were and are available through the Internet.

c. If this request is approved, [REDACTED] would not rate a special selection because:

- 1) There was no error in the boards' proceedings.
- 2) The correction to [REDACTED] record would have taken place after he twice failed of selection by the boards in question. Reference (b) makes it clear that correction to an officers record after failing of selection by a board effected by the error will not necessarily be the grounds for convening a special selection board.
- 3) [REDACTED] fails to demonstrate a reasonable amount of diligence in preventing the alleged error from occurring. Reference (b) states that a special selection board will not be convened to consider an officer who could have

prevented the error through the exercise of reasonable diligence.

2. Major [REDACTED] claims are without merit and his request should be denied.

3. Point of contact is Capt. [REDACTED]

[REDACTED]