



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

BJG
Docket No: 1291-01
2 July 2001

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: MA [REDACTED] USMCR, [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 21 Feb 01 w/attachments
(2) Copy of Subject's fitrep for 1 Jan - 27 Jul 97
(3) Memo for record dtd 15 May 01
(4) HQMC CMT memo dtd 8 May 01
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing his failures of selection before the Fiscal Year (FY) 2000 and 2001 Reserve Lieutenant Colonel Selection Boards. After he submitted his application, he failed before the FY 2002 Reserve Lieutenant Colonel Selection Board. It is presumed that he also requests removal of this failure, so as to be considered by the selection board that is next convened to consider officers of his category for promotion to the grade of lieutenant colonel as an officer who has not failed of selection to that grade.

2. The Board, consisting of Messrs. Ensley, Pfeiffer, and Taylor, reviewed Petitioner's allegations of error and injustice on 27 June 2001, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. After Petitioner had failed by the FY 2000 and 2001 Reserve Lieutenant Colonel Selection Boards, the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board directed removal of his adverse fitness report for 1 January to 27 July 1997. A copy of this report is at enclosure (2). The memorandum for the record at enclosure (3) shows

that this report was removed on 13 February 2001, before the FY 2002 Reserve Lieutenant Colonel Selection Board convened on 27 March 2001.

c. In the advisory opinion attached as enclosure (4), the HQMC office having cognizance over the subject matter of Petitioner's request to strike his failures of selection for promotion by the FY 2000 and 2001 selection boards has commented to the effect that this request has merit and warrants favorable action. The opinion does not address his FY 2002 failure.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (4), the Board finds the existence of an injustice warranting removal of all Petitioner's failures of selection for promotion. They agree with the advisory opinion in finding that the FY 2000 and 2001 failures should be removed. They also find that the FY 2002 failure must be removed as well, to restore the status Petitioner enjoyed before the FY 2000 selection board as not having failed of selection. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to lieutenant colonel as an officer who has not failed of selection for promotion to that grade.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

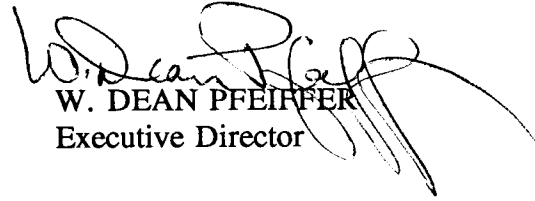
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder

Jonathan S. Ruskin
JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director

15 May 01

MEMO FOR RECORD

Re: Case of [REDACTED]
USMCR, docket no 1291-01

Today H&MC [REDACTED] advised that [REDACTED] fitness rpt for 1 Jan - 27 Jul 97 was removed on 13 Feb 01 (before the FY02 Res Lt Col Sel Bd began on 27 Mar 01).

Jonathan S. Ruskin
JONATHAN S. RUSKIN
Head, Performance Section



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

IN REPLY REFER TO:

1600
CMT
8 May 01

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR
CORRECTION OF NAVAL RECORDS

Subj: RESERVE AFFAIRS ADVISORY OPINION ON BCNR
APPLICATION; CASE OF [REDACTED]
[REDACTED] USMCR

Ref: (a) CMC ltr 1610/MMER/PERA dtd 7 Feb 01

1. Recommend [REDACTED]'s request to remove his failures of selection be approved. The following justification is provided.
2. [REDACTED]'s request to remove his failures of selection is based on the fact that the FY00 and FY01 promotion boards reviewed an adverse fitness report in his record. Subsequently, reference (a) directed the removal of the adverse report and made [REDACTED]'s record more competitive.
3. [REDACTED]'s record does show significant trends in several areas earlier in his career. Despite these trends, [REDACTED] was promoted to his current rank and his performance has significantly improved as a field grade officer. [REDACTED] has a DUI conviction from 1997 in his Official Military Performance File that may prevent his ultimate selection to Lieutenant Colonel. However, the appropriate selection board should determine this issue.
4. Point of contact i [REDACTED]

[REDACTED]

By direction