



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

in

BJG
Docket No: 2041-01
5 October 2001

MA [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear [REDACTED]

This is in reference to your application dated 7 October 2000 for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested removal of your fitness report for 31 August 1998 to 30 June 1999. As indicated in the attached memorandum dated 8 March 2001 from the Headquarters Marine Corps (HQMC) Personnel Management Support Branch, this report has been removed. You also sought reconsideration of your previous request, docket number 6816-00, which was denied on 19 January 2001, to remove your failures by the Fiscal Year (FY) 2001 and 2002 Lieutenant Colonel Selection Boards; and you added a new request for remedial consideration for the FY 2001 promotion board. Finally, you sought reconsideration of your previous request, also denied on 19 January 2001 in connection with docket number 6816-00, to remove the peer ranking from your fitness report for 1 November 1994 to 19 May 1995. This request was not reconsidered, as you have provided no new and material evidence or other matter concerning this request which was not previously considered.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 3 October 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 current application, together with all material submitted in support thereof, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the memorandum from the Headquarters Marine Corps (HQMC) Performance Evaluation Review Branch dated 7 February 2001, the two advisory opinions from the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 14 March and 10 July 2001, and the memorandum for the record (MFR) dated 4 September 2001, copies of which are attached. They also considered your three rebuttal letters dated 21 June, 20 August, and 13 September 2001 with enclosure.

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. They again found that your failures of selection to lieutenant colonel should stand. In this regard, they found that your fitness report for 31 August 1998 to 30 June 1999 was not available to either of the promotion boards before which you failed of selection. Further, they substantially concurred with the input from MMOA-4 reflected in the MFR in concluding once again that your selection would have been definitely unlikely, even if your record had not included the later removed fitness report for 14 January to 10 June 1991. Since they still found insufficient basis to remove your failure by the FY 2001 Lieutenant Colonel Selection Board, they had no grounds to recommend granting you remedial consideration for that selection board. In view the above, the Board again voted to deny relief. 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



010207

MEMORANDUM

DATE:

From: [REDACTED] IMER

To: Record

Subj: BCNR APPLICATION [REDACTED]

Ref: (a) Phonecon [REDACTED] (BCNR)
and [REDACTED] (MER) 010207

1. As indicated during the referenced phone conversation, [REDACTED] has amended his Application for Correction to Military Record to include a request to remove his failures of selection.

2. BCNR [REDACTED] requests that we obtain and provide an Advisory Opinion from MMOA-4.

[REDACTED]



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
PERSONNEL MANAGEMENT SUPPORT BRANCH (MMSB)
2008 ELLIOT ROAD
QUANTICO, VA 22134-5030

IN REPLY REFER TO
1610
MMSB
8 Mar 01

MEMORANDUM FOR THE RECORD

From: Head, Personnel Management Support Branch

Subj: [REDACTED]

1. On 5 October 2000, I directed the administrative removal of fitness report 98092 [REDACTED] RS [REDACTED].

2. The rationale for this decision was based on having two fitness reports for the same reporting period in the Performance Evaluation System. Both reports were for the same billet description and billet responsibilities. The Senior Marine Representative administratively sighted and signed the fitness report that was not in [REDACTED] OMPF (but in the Performance Evaluation System). He did not see the [REDACTED] report but said that it was bogus and was not written within the operational chain of command. This report should not have been written to [REDACTED] OMPF because it was not "administratively and procedurally correct" as the third officer statement added adversity to the report and did not refer it to [REDACTED] for comment.

3. This report was part of the OMPF from 22 August 2000 until its removal on 5 October 2000. The date, 5 October 2000, is significant in that it was the last date that we could add or delete any digital OMPFs for the [REDACTED] that convened on 11 October 2000. This deletion was made and verified that it was not in the LtCol Board inventory on the afternoon of 5 October 2000. With absolute assurance, this fitness report was not viewed by the FY01 or FY02 LtCol Promotion Boards.

[REDACTED]

Encl (1)



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

IN REPLY REFER TO:
1600
MMAA-4
14 Mar 01

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

Subj: BCNR PETITION FOR [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
[REDACTED] USMC
of 7 Feb 01

Encl: (1) Head, Personnel Management Support Branch, Memorandum
for the Record of 8 March 2001.

1. Recommend disapproval of [REDACTED] request for removal
of his failures of selection.

2. Per the reference, we reviewed [REDACTED] record and
petition. He failed selection on the FY01 and FY02 USMC
Lieutenant Colonel Selection Board. He petitioned the
Performance Evaluation Review Board (PERB) for removal of the
Change of Reporting Senior fitness report of 980831 to 990731.
[REDACTED] requests removal of his failures of selection.

3. Per Enclosure (1), the petitioned report was not placed into
[REDACTED] Official Military Personnel File (OMPF) until
000922, which was after the FY01 Board adjourned. The
petitioned report was removed from the OMPF and the Lieutenant
Colonel Selection Board Inventory by MMSB on 001005, before the
FY02 Board convened.

4. The petitioned report did not go before the FY01 or FY02
Board, therefore, we recommend disapproval of [REDACTED]
request for removal of his failures of selection.

5. Point of con [REDACTED]

[REDACTED]

Colonel, U.S. Marine Corps
Head, Officer Assignments Branch
Personnel Management Division



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

2041-01

IN REPLY REFER TO:
1600
MMAA-4
10 Jul 01

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

Subj: BCNR PETITION FOR MAJOR [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
[REDACTED] BMC
of 28 Jun 01

1. Recommend disapproval of [REDACTED] request for removal
of his failures of selection.

2. Per the reference, we reviewed [REDACTED]'s record and
petition. He failed selection on the FY01 and FY02 USMC
Lieutenant Colonel Selection Board. He petitioned the
Performance Evaluation Review Board (PERB) for removal of the
Change of Reporting Senior fitness report of 980831 to 990630.
[REDACTED] requests removal of his failures of selection.

3. Per the letter of 8 Mar 01 from [REDACTED]
Head, Personnel Management Support Branch, the petitioned report
was removed from the OMPF on 5 October 2000. [REDACTED] letter
emphatically states that the contested report was not viewed by
the FY01 or FY02 Lieutenant Colonel Selection Boards.

4. Since the petitioned report did not go before the FY01 or
FY02 Board, [REDACTED]'s record was complete, accurate, and
provided a fair assessment of his performance. Therefore, we
recommend disapproval of [REDACTED] request for removal of
his failures of selection.

5. Point of contact is [REDACTED].

[REDACTED]
Colonel, U.S. Marine Corps
Head, Officer Assignments Branch
Personnel Management Division

MEMORANDUM FOR THE RECORD

DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)
PERFORMANCE SECTION
2 NAVY ANNEX, SUITE 2432
WASHINGTON, DC 20370-5100
TELEPHONE: DSN 224-9842 OR COMM (703) 614-9842
FAX: DSN 224-9857 OR COMM (703) 614-9857

DATE: 4SEP01

DOCKET NO: 2041-01

PETITIONER (PET): [REDACTED], USMC

PARTY CALLED: [REDACTED] SMC, HQMC MMOA-4

TELEPHONE NUMBER: [REDACTED]

WHAT I SAID: I ASKED [REDACTED] TO CORRECT MMOA-4'S ADVISORY OPINION (AO) DTD 29SEP00, WHICH BCNR RELIED UPON IN PET'S PRIOR CASE.

WHAT PARTY SAID: [REDACTED] INFORMED ME THAT THEIR ORIG AO WAS INCORRECT IN CITING THAT HIS ADVERSE FITREP OF 31AUG98-30JUN99 CONTRIBUTED TO HIS FOS BEFORE THE FY-01 USMC LTCOL SEL BD. HE SAID THAT THIS WAS INCORRECT BECAUSE THE SEL BD DID NOT SEE THIS RPT AND IT HAS BEEN REMOVED. HE ALSO SAID THAT PET'S OVERALL RANKING AND OTHER JEOPARDY [REDACTED] (LESS THAN "OS") MOST LIKELY RESULTED IN HIS FOS.

Brian J. George
BRIAN J. GEORGE