



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 4664-00

15 August 2000

MA [REDACTED] USMC  
[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.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your contested fitness report for 4 August 1997 to 24 April 1998.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 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 report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board, dated 28 June 2000 with enclosure, and the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division (MMAA-4) dated 26 June 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 opinion from MMAA-4 in concluding that your failures by the Fiscal Year 2000 and 2001 Lieutenant Colonel Selection Boards should stand. They found that your selection would have been definitely unlikely, had your record presented to the promotion boards not included the fitness report whose removal has been directed. 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

Enclosures



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

IN REPLY REFER TO:

1610  
 MMER  
 28 Jun 00

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

Subj: BCNR APPLICATION IN THE CASE OF MAJOR [REDACTED]  
 [REDACTED] USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 21 Jun 00  
 (2) CMC Advisory Opinion 1610 MMOA-4 of 26 Jun 00  
 (3) Copy of CMC ltr 1610 MMER of 28 Jun 00

1. As evidenced by enclosure (1), PERB removed from [REDACTED] G [REDACTED] official military record, the fitness report for the period 970804 to 980424 (TR).
2. We defer to BCNR on the issue [REDACTED] request for the removal of his failures of selection to the grade of Lieutenant Colonel. Enclosure (2) is furnished to assist in resolving that matter.
3. By enclosure (3), this Headquarters provided [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED] en)  
 D.  
 Head, Performance Evaluation  
 Review Branch  
 Personnel Management Division  
 By direction of the Commandant  
 of the Marine Corps



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

4664-00

IN REPLY REFER TO:  
1610  
MMER/PERB  
21 JUN 2000

From: Commandant of the Marine Corps  
To: [REDACTED] USMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report (Frames D13 and D14, 02 Fiche pertain):

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
24 Apr 98	[REDACTED]	970804 to 980424 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]  
By direction



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

4664-00

IN REPLY REFER TO:  
1600  
MMAA-4  
26 Jun 00

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

Subj: BCNR PETITION FOR MAJOR [REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
Major [REDACTED] USMC  
of 22 Jun 00

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 FY00 and FY01 USMC Lieutenant Colonel Selection Boards. Subsequently, he successfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Transfer fitness report of 970804 to 980424. [REDACTED] requests removal of his failures of selection.

3. In our opinion, the favorable PERB action enhances the competitiveness of the record as it appeared before the FY00 and FY01 Boards. However [REDACTED] record contains other areas of competitive concern that more than likely led to his failures of selection.

a. **Section B Marks.** [REDACTED] record contains less competitive Section B marks in Regular Duties, Additional Duties, Administrative Duties, Handling Officers, Handling Enlisted, Training Personnel, Tactical Handling of Troops, Attention to Duty, Cooperation, Initiative, Judgment, Force and Economy of Management. We note he is marked Excellent in Administrative Duties as a major in 1997.

b. **Value & Distribution in Command.** While serving in Company Command billet [REDACTED] has ten officers ranked above him and one below, placing him at the bottom of the pack.

c. **Combat Fitness Report of 900810 to 910524.** As a company commander, [REDACTED] is marked Excellent in Administrative Duties, Attention to Duty, Cooperation, Initiative, Force and Economy of Management. He has 6 officers ranked above him and 1 below, placing him at the bottom of the pack.

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

4. In summary, the removal of the petitioned report enhanced the competitiveness of the record, however, [REDACTED] record contains other areas of competitive concern that more than likely led to his failures of selection. Therefore, we recommend disapproval of [REDACTED] request for removal of his failures of selection.

5. Point of contact [REDACTED], [REDACTED]

[REDACTED]

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