



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

BJG
Docket No: 95-01
19 January 2001

CWO [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Chief Warrant Officer [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 adverse fitness report for 5 June 1999 to 30 April 2000.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 January 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 (HQMC) Performance Evaluation Review Board (PERB), dated 22 December 2000 with enclosure, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4) dated 12 December 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 MMOA-4 in finding that your failure by the Fiscal Year 2001 Chief Warrant Officer-5 Selection Board should stand. They found that your selection would have been definitely unlikely, even if the contested fitness report had not been in your record. 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

Enclosure

95-01



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

IN REPLY REFER TO:
1610
MMER
22 Dec 00

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

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

- Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 7 Dec 00
- (2) CMC Advisory Opinion 1610 MMOA-4 of 12 Dec 00
- (3) Copy of CMC ltr 1610 MMER/PERB of 22 Dec 00

1. As evidenced by enclosure (1), PERB removed from CWO [REDACTED] official military record, the fitness report for the period 990605 to 000430 (AN).

2. We defer to BCNR on the issue of [REDACTED] request for the removal of her failure of selection to the grade of CWO-5. 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]

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

IN REPLY REFER TO:
1610
MMER/PERB
7 DEC 2000

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

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 Reviewing Officer's Certification only for the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Reporting Period</u>
30 May 00	[REDACTED]	990605 to 000430 (AN)

2. There will be inserted in your Naval record a memorandum in place of the removed comments. The memorandum will state that the comments have been removed by order of the Commandant of the Marine Corps, and may not be made available to selection boards and other reviewing authorities; that such boards may not conjecture or draw inference as to the nature of the comments.

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

IN REPLY REFER TO:
1600
MMA-4
12 Dec 00

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

Subj: BCNR PETITION FOR CHIEF WARRANT OFFICER [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
[REDACTED] USMC
of 7 Dec 00.

1. Recommend disapproval [REDACTED] request for removal of her failure of selection.
2. Per the reference, we reviewed [REDACTED] record and petition. She successfully petitioned the Performance Evaluation Review Board (PERB) to remove the Reviewing Officer's Certification from the Annual Fitness Report for the period 990605 to 000430. Subsequently, she failed selection on the FY01 USMC CWO-5 Selection Board. [REDACTED] requests removal of her failure of selection.
3. In our opinion, the favorable PERB action enhances the competitiveness of the record, but not enough to warrant removal of the failure of selection. Moreover, [REDACTED] record contains others areas of competitive concern that more than likely led to her failure of selection.
 - a. **Section B Marks.** [REDACTED] record contains Section B marks of Above Average and Below Average in Personal Appearance in three consecutive fitness reports. She is also marked Excellent in Administrative Duties, Handling Enlisted Personnel, Training Personnel, Military Presence, Attention to Duty, Initiative, Judgment, Force, Leadership, Personal Relations and Growth Potential as a CWO-4.
 - b. **Adverse Fitness Reports.** [REDACTED] has two consecutive adverse fitness reports relating to personal appearance and weight control.

Subj: BCNR PETITION FOR CHIEF WARRANT OFFICER [REDACTED] SMC

c. **Section C Comments.** The Change of Reporting Senior fitness report of 970524 to 970926 contains the negative Section C comments, "Assigned to weight control program during this reporting period. Making unsatisfactory progress," and "I recommend that she not be promoted at this time, due to assignment of weight control."

4. In summary, the favorable PERB action enhances the competitiveness of [REDACTED]'s record, but not enough to warrant removal of the failure of selection. Moreover, the record contains other areas of competitive concern that more than likely led to her failure of selection. Therefore, we recommend disapproval of [REDACTED] request for removal of her failure of selection.

5. POC i [REDACTED]

[REDACTED]

Major, U.S. Marine Corps
Head, Officer Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division