



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

BJG
Docket No: 6270-02
15 August 2002

LTCOL [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Colonel [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 removed the following from the reviewing officer's comments in the contested section K of your fitness report for 1 July 2000 to 29 June 2001: "Saw the Battalion through a number of tragedies -- POV [privately owned vehicle] deaths, off duty deaths, a suicide -- without missing an operational step."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 August 2002. 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 Performance Evaluation Review Board (PERB), dated 12 July 2002, a copy of which is 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 report of the PERB. Accordingly, 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



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

6270-02

IN REPLY REFER TO:
1610
MMER/PERB
JUL 12 2002

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

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
LIEUTENANT COLONEL [REDACTED] USMC

Ref: (a) LtCol [REDACTED]'s DD Form 149 of 24 Apr 02
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 10 July 2002 to consider Lieutenant Colonel [REDACTED]'s petition contained in reference (a). Removal of Section K in his fitness report for the period 000701 to 010629 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the Reviewing Officer's statement concerning multiple tragedies within his command is inaccurate and that said comments illustrate an environment that simply did not exist. It is the petitioner's position that there were substantial efforts to prevent suicide and POV accidents. To support his appeal, the petitioner furnishes a copy of the challenged fitness report, PCR/SIR reports on three marines, and a Meritorious Service Medal Citation on himself signed by Lieutenant General [REDACTED].

3. In its proceedings, the PERB concluded that, with a minor exception, the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. The Board agrees with the petitioner concerning the second sentence in Section K4. They do not, however, conclude that removal of all data in Section K is warranted. Instead, removal of the offending language has been directed (to wit: "Saw the Battalion through a number of tragedies -- POV deaths, off duty deaths, a suicide -- without missing an operational step.").

b. The Board does not agree that the petitioner's placement in Item K3 (Comparative Assessment) was somehow influenced by

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the now-removed comments or that said assessment belies the citation for the Meritorious Service medal.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the modified version of the contested fitness report should remain a part of Lieutenant Colonel [REDACTED] official military record. The limited corrective action identified in subparagraph 3a is considered sufficient.

5. The case is forwarded for final action.

[REDACTED]

Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps