



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

BJG  
Docket No: 7342-02  
22 August 2002

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

Subj: CAPT [REDACTED] USMC, [REDACTED]  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Forms 149 dtd 12 and 18 Apr 02, each w/attachments  
(2) HQMC MMR memo dtd 13 Aug 02 w/encl  
(3) HQMC MMOA-4 memo dtd 13 Aug 02  
(4) 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 the section K (reviewing officer marks and comments) from the fitness report for 14 April to 1 June 2000, a copy of which is at Tab A. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of the contested section K. Petitioner further requested removal of his failure of selection before the Fiscal Year 2003 Major Selection Board, so as to be considered by the selection board that next convenes to consider officers of his category for promotion to the grade of major as an officer who has not failed of selection to that grade.

2. The Board, consisting of Messrs. Agresti, McBride and Shy, reviewed Petitioner's allegations of error and injustice on 15 August 2002, 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. In correspondence attached as enclosure (3), the HQMC office having cognizance over the subject matter of Petitioner's request to strike his failure of selection for promotion has commented to the effect that this request has merit and warrants favorable action.

**CONCLUSION:**

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting 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 major 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.

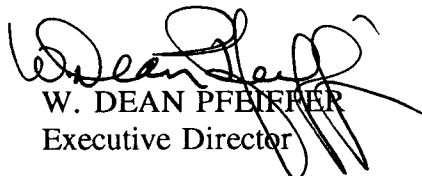
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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  
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



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

IN REPLY REFER TO:  
1610  
MMER  
13 Aug 02

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

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

- Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 8 Aug 02
- (2) CMC Advisory Opinion 1610 MMOA-4 of 13 Aug 02
- (3) Copy of CMC ltr 1610 MMER/PERB of 13 Jul 02

1. As evidenced by enclosure (1), PERB removed from Captain [REDACTED] official military record, the Reviewing Officer's comments (Section K) from the fitness report for the period 000414 to 000601 (CH).

2. We defer to BCNR on the issue of Captain [REDACTED] request for the removal of his failure of selection to the grade of Captain. Enclosure (2) is furnished to assist in resolving that matter.

3. By enclosure (3), this Headquarters provided Captain [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

1610  
MMER/PERB  
105 5 2002

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

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 Comments (Section K in its entirety) for the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Reporting Period</u>
22 Jun 00	[REDACTED]	000414 to 000601 (CH)

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.

[REDACTED]  
By direction



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

7342-02

IN REPLY REFER TO:

1600  
MMOA-4  
13 Aug 02

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

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]  
USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
Captain [REDACTED] USMC  
of 13 Aug 02

1. Recommend approval of Captain [REDACTED] implied request for  
removal of his failure of selection.

2. Per the reference, we reviewed Captain [REDACTED] record and  
petition. Captain [REDACTED] failed selection on the FY03 USMC Major  
Selection Board. He successfully petitioned the Performance  
Evaluation Review Board (PERB) to remove the Reviewing Officer  
comments and marks on the Change of Reporting Senior report from  
000414 to 000601.

3. In our opinion, the petitioned comments and marks contained  
competitive concerns that may have resulted in the failure of  
selection. Removal of the Reviewing Officer comments and marks  
increases the competitiveness of Captain [REDACTED] record.  
Therefore, we recommend approval of his implied request for  
removal of the failure of selection. *DD*

4. POC is [REDACTED]

[REDACTED]

Lieutenant Colonel, USMC  
Head, Officer Counseling and  
Evaluation Section  
Personnel Management Division