



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

BJG
Docket No: 8384-01
10 January 2002

LTCOL [REDACTED] USMC
[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 January 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 6 December 2001, 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. They did not find the contested fitness report addressed minor matters that ought not to have been mentioned, nor did they find the narrative to be vague or ambiguous. In view of the above, your application 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

4384-01



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

IN REPLY REFER TO:
1610
MMER/PERB
06 DEC 2001

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], [REDACTED] USMC

Ref: (a) LtCol [REDACTED] DD Form 149 of 5 Oct 01
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 29 November 2001 to consider Lieutenant Colonel [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 000731 to 010531 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends he was never officially counseled that his performance was substandard to the degree that it could or would result in an adverse fitness report. Furthermore, he states the Reporting Senior never documented any unsatisfactory performance and that the "adverse" nature of the report came as a total surprise. It is his position that the report is a violation of the tenets of the performance evaluation system. To support his appeal, the petitioner furnishes his own statement and provides a letter from Commander [REDACTED]

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

a. What the petitioner implies by never being formally counseled is not known, since counseling can and does occur in many styles and forums. It is apparent, however, from the petitioner's own rebuttal to the fitness report, that on 16 November 2000 Colonel [REDACTED] informed him he was not pulling his weight. He was evidently instructed to prioritize his time towards his billet vice pursuit of a Masters' Degree (the latter not being a part of his billet description). The Board believes that such a discussion for a Lieutenant Colonel of Marines would have been a "red flag" constituting all the formal counseling needed.

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b. Nothing in the petitioner's rebuttal or his statement included with reference (a) indicates what efforts and achievements of his were overlooked or ignored by the Reporting Senior. Likewise, there is nothing to show precisely how or why he would have rated higher marks than those reflected on the challenged fitness report. Additionally, we find none of the marks to be in contrast with or contradictory to the comments in Sections E, H, or I.

c. While the letter from Commande [REDACTED] is both complimentary and supportive, we note that he was not in the petitioner's **official** reporting chain. Obviously he was not privy to the discussions between the petitioner and Colonel [REDACTED] nor to the responsibilities and expectations conveyed during those discussions.

d. It is apparent from [REDACTED] observations and inquiries that he was satisfied in how the Reporting Senior carried out his responsibilities in evaluating the petitioner. The only issue with which he took exception was the "not recommended for promotion." Such a disagreement is left as a matter of official record and does not invalidate the appraisal.

4. The Board's opinion, based on deliberation and secret ballot, is that the contested fitness report should remain a part of Lieutenant Colonel [REDACTED] official military record.

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