



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

BJG
Docket No: 5737-03
7 August 2003

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

Subj: M [REDACTED], USM [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 2 Apr 03 w/attachments
(2) HQMC MMER memo dtd 2 Jul 03 w/encl
(3) HQMC MMOA-4 memo dtd 30 Jun 03
(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 his naval record be corrected by modifying the fitness report for 4 January to 12 May 2001 (copy at Tab A to enclosure (1)). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed the requested modification of the fitness report by changing the reviewing officer's "comparative assessment" from sixth highest (of eight) to fourth highest. Petitioner further requested removal of his failure of selection before the Fiscal Year 2004 Lieutenant Colonel 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 lieutenant colonel as an officer who has not failed of selection to that grade.

2. The Board, consisting of Messrs. Bishop, Neuschafer, and Schultz, reviewed Petitioner's allegations of error and injustice on 31 July 2003, 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 lieutenant colonel 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 PFENNER
Executive Director



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

5137-02
IN REPLY REFER TO:
1610
MMER
2 Jul 03

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

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 25 Jun 03
(2) CMC Advisory Opinion 1610 MMOA-4 of 30 Jun 03
(3) Copy of CMC ltr 1610 MMER/PERB of 2 Jul 03

1. As evidenced by enclosure (1), PERB directed modification to the Comparative Assessment mark (Section K3) of [REDACTED] fitness report for the period 20010104 to 20010512 (TD).

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

3. By enclosure (3), this Headquarters provide [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
JUN 25 2003

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

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) Your DD Form 149 of 2 Apr 03
(b) MCO 1610.11C

1. This responds to your request contained in reference (a).
2. Per the provisions of reference (b), the Performance Evaluation Review Board (PERB) has reviewed allegations of error and injustice in your naval record.
3. Having reviewed all the facts, the Board has directed that Section K3 (Comparative Assessment) of your fitness report for the period 20010104 to 20010512 (TD) will be modified as requested by Colonel [REDACTED] e., top block in the category entitled "one of the many highly qualified. . .").
4. In addition to the foregoing the Performance Evaluation System (the data base that generates your Master Brief sheet) will be corrected accordingly.
5. 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

1600 IN REPLY REFER TO:
MMOA-4
30 Jun 03

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

Subj: BCNR PETITION FOR [REDACTED]
USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Major [REDACTED] C
of 26 Jun 03

1. Recommend approval of [REDACTED]'s request for removal
of his failure of selection.

2. Per the reference, we reviewed [REDACTED] record and
petition. [REDACTED] failed selection on the FY04 USMC
Lieutenant Colonel Selection Board. He successfully petitioned the
Performance Evaluation Review Board (PERB) to modify the To
Temporary Duty report dated 010104 to 010512. [REDACTED]
requests removal of his failure of selection.

3. In our opinion, the favorable PERB action does marginally
improve the competitiveness of the record. But with the
petitioned report modified [REDACTED] record still
contains considerable competitive jeopardy in the following
areas:

a. **Key Billets.** [REDACTED] served as a squadron
Aircraft Maintenance Officer, which is a key leadership
billet for his MOS, and therefore his performance in this
billet is a key indicator of his competitiveness. His two
fitness reports from this billet have relative values of
88.43 and 89.94, and the Reviewing Officer's marks are
slightly below the average. While the comments in general
are fairly strong, they are lacking some of the comments
that typically add strength to a record. The reports
contain recommendations for future staff billets, but not
for command.

b. **Relative Value and Reviewing Officer Marks.** Overall,
[REDACTED] comparative assessments fall slightly
below average. Four of his six relative values are below
ninety. After the modification of the petitioned report,
his overall reviewing officer marks still characterize as
mid-pack.

4. In summary, the favorable PERB action did marginally improve the competitiveness of [REDACTED] record. Though we recognize his record contains other areas of competitive concern, we believe [REDACTED] should be afforded the benefit of the doubt and recommend approval of his request for removal of his failure of selection.

5. POC: [REDACTED] Eslet [REDACTED]

[REDACTED]

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