



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

BJG  
Docket No: 6067-03  
4 September 2003

LTCC [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.

You requested that the fitness report for 22 December 2000 to 31 May 2001 be removed. In addition, you requested that the fitness report for 1 to 6 June 2001 be modified, by changing the beginning date from 1 June 2001 to 22 December 2000, and removing the reporting senior (RS)'s section I comment: "This report was drafted and resubmitted to replace a previously submitted report lost in the administrative mailing process."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 August 2003. 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 18 July 2003, a copy of which is attached. The Board also considered your rebuttal letter dated 18 August 2003.

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.

Specifically concerning the contested report for 22 December 2000 to 31 May 2001, the Board was unable to find the fact-finding board to which the reviewing officer (RO) referred was pending. The Board found the RO correctly mentioned "suspected" plagiarism as the basis for convening the fact-finding board. The Board noted the RO says he found "sufficient doubt" that you knowingly committed plagiarism, but that "submitting a paper from a

previous course was an ethical violation." The Board did not find the RS narrative or that of the RO reflected either ambiguity or innuendo. Finally, the Board was unable to find the report at issue was improperly used as a disciplinary tool or counseling document, nor could it find undue influence by your superiors to modify the comments in the report.

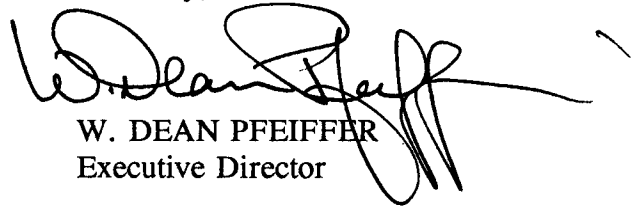
With respect to the report for 1 to 6 June 2001, the Board could find no basis for deleting the comment to the effect that the report replaced another report that had been lost.

Since the Board found no defect in your performance record, it had no grounds to remove your failure to be screened for command.

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

6067-03



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
JUL 18 2003

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] DD Form 149 of 18 Mar 03  
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 2 July 2003 to consider Lieutenant Colonel [REDACTED] petition contained in reference (a). Action as indicated was requested on the following fitness reports:

a. Report A - 20001222 to 20010531 (GC). Removal in its entirety.

b. Report B - 20010601 to 20010606 (TR). Modification to the inclusive dates and elimination of Section I verbiage.

Reference (b) is the performance evaluation directive governing the submission of both reports.

2. The petitioner contends that Report A is fundamentally unfair and inaccurate, and that per enclosure (4) to reference (a), its submission was not required. He also believes the comments of the Reviewing Officer and General Officer sighter are unjust, and that by mentioning Brigadier General [REDACTED] intercession and advocacy in his situation, Brigadier General [REDACTED] added new adversity. With the elimination from his record of Report A, the petitioner then asks for the beginning date of Report B (Item 3b) to be modified to "20001222." To support his appeal, the petitioner furnishes several items of documentary evidence, to include a letter from Brigadier General [REDACTED]

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

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a. The Board views as invalid, the petitioner's contention that Report A should not have been submitted. The PERB acknowledges that enclosure (4) to reference (a) allows the Marine Corps University (MCU) to waive "GC" (grade change) fitness reports and submit a one-time "TR" (transfer) report on the occasion of a student's completion of the school. The spirit and intent of that waiver is to lessen administrative requirements and serves as a guide. It does not categorically eliminate the requirement to submit "GC" reports. That the Command and Staff College (C&SC) chose to render the report was their choice and the submission is neither an administrative error nor an invalidating factor.

b. In an ideal situation, the adversity surrounding the challenged fitness report would have been resolved prior to the petitioner's transfer from Quantico. The letters at enclosures (7) and (9) to reference (a) chronicle some of the reasons for the delay and the logistics involved. This was a sensitive situation exacerbated by the petitioner's current grade. Regardless, the report is the official version covering the period at issue. The petitioner acknowledged the adverse comments made by the Reviewing Officer and included a statement of rebuttal. In turn, the evaluation was clarified and thoroughly adjudicated by Brigadier General [REDACTED]

c. It is clear from Brigadier General [REDACTED]'s letter at enclosure (3) to reference (a) that he was knowledgeable and involved in the situation described in Report A. It was the petitioner, however, who officially documented Brigadier General [REDACTED] involvement (pages one and two of his rebuttal statement). Consequently, Brigadier General [REDACTED] was appropriate in commenting on the facts and placing them into focus from his perspective, both as President of the Marine Corps University, and as a responsible reviewing official. Contrary to the petitioner's allegation, Brigadier General [REDACTED] did not add new or additional adversity; he merely answered an issue raised by the petitioner.

d. The issues addressed by the petitioner and commented on by Brigadier General [REDACTED] were all the subject of duly established policies and procedures. The Board finds nothing in reference (a) that causes it to question either the accuracy or

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
LIEUTENANT COLONEL [REDACTED] SMC

fairness of Report A. Likewise, we find no reason to modify the beginning date of Report B.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A should remain a part of Lieutenant Colonel [REDACTED] official military record, and that Report B should not be modified.

5. The case is forwarded for final action.

[REDACTED]

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