



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

JSR
Docket No: 9116-08
20 November 2008

[REDACTED]

[REDACTED]

[REDACTED]

[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.

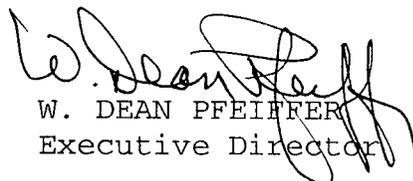
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 November 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 17 September 2008, 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 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, VA 22134-5103

IN REPLY REFER TO:

1610
MMER/PERB
SEP 17 2008

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
[REDACTED]

Ref: [REDACTED] s DD Form 149 of 15 Jul 08
(b) MCO P1610.7F

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 27 August 2008 to consider [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 20060601 to 20060922 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner received this adverse report for being relieved for cause as a company commander in combat. The reporting senior (RS) lost trust and confidence in the petitioner and states that he demonstrated a lack of mature judgment and leadership ability. He now argues that this report is unjust because the reviewing officer (RO) and the third officer sighter did not properly adjudicate the report in accordance with reference (b). He did not submit any documentation in support of his appeal.

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

a. The Board found that although abbreviated, the adjudication by the RO and third officer sighter does meet the requirements of reference (b). The RO states that although there are inconsistencies between the RS' comments and the petitioner's rebuttal, "what is not in dispute is the Battalion Commander's loss in confidence. . . ." The Board does recognize that both the RO and the third officer sighter could have written a more detailed explanation of their adjudication. However, the fact that the RS was ^{relieved for cause} relieved for cause is not in dispute, and alone warrants submitting an adverse report.

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b. In addition, the Board notes that the RS portion of this report is extremely thorough and detailed. He fully explains his reasons for his loss of confidence. This indicated to the Board that a great deal of consideration went into this action and the writing of this report.

5. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report covering the period 20060601 to 20060922 (TR), should remain a part of [REDACTED] official military record.

6. The case is forwarded for final action.



FRANCES S. POLETO
Chairperson, Performance
Evaluation Review Board
Manpower Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps