



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

BJG
Docket No: 1974-00
15 September 2000

LTCOL [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear [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.

It is noted that the Commandant of the Marine Corps (CMC) has granted your requests to file a clear copy of the fitness report for 18 May 1981 to 4 February 1982, remove the reviewing officer comments from that report, and remove part of a sentence from the report for 30 March to 9 May 1983.

Your request to correct the document dated 23 March 1994, Subject: "STATUS IN THE MARINE CORPS RESERVE" was not considered, as you have not exhausted your administrative remedies. You may submit this request to the Headquarters Marine Corps (HQMC) Personnel Management Support Branch (MMSB). You may also address to MMSB your concerns about your Official Military Personnel File (OMPF) cited in paragraph 2 of your letter dated 12 June 2000, if corrective action is still needed.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 September 2000. 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 reports of the HQMC Performance Evaluation Review Board (PERB), dated 14 March and 16 June 2000, and the advisory opinions from the HQMC Personnel Management Branch, Reserve Affairs Division (RAM), dated 5 April 2000, and the HQMC Career Management Team, Reserve Affairs Division (CMT), dated 18 July 2000, copies of which are attached. They also considered your letters dated 25 March, 12 May, 29 June, and 23 August 2000.

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.

The Board substantially concurred with the comments contained in the reports of the PERB in finding no further correction of your fitness report record was warranted. Regarding the contested fitness report for 5 July to 1 September 1976, the Board, contrary to the PERB, was unable to find the occasion "AT" was erroneous. In this regard, they noted that Marine Corps Order P1610.7A, enclosure (1), paragraph 3.b(3) identifies an "AT" report as a "school" report. They found no requirement that "AT" or "AC" (academic) reports be fully "not observed." Concerning the report for 1 June to 11 July 1982, they agreed with your contention that the contested language tends to reveal your duty at the outset of the period of the removed fitness report for 12 July 1982 to 29 March 1983. However, they did not find leaving this language in your record to be inconsistent with removing the following report.

The Board further found that your failure by the Fiscal Year 2000 Reserve Lieutenant Colonel Selection Board should not be removed. They noted that you have not exhausted your administrative remedies regarding the letter dated 23 March 1994, and you could have corresponded with the promotion board about this matter. Concerning the OMPF errors listed in paragraph 2 of your letter dated 12 January 2000, they observed that you could have submitted correspondence to the promotion board forwarding legible documents, and you could have pointed out the errors warranting correction. Finally, they found your selection would have been definitely unlikely, even if the letter of 23 March 1994 had been corrected as you request, the OMPF errors you listed had been corrected, and the fitness reports for 18 May 1981 to 4 February 1982 and 30 March to 9 May 1983 had been corrected as you request. In this regard, they particularly noted the areas of competitive concern cited in paragraph 3 of the opinions dated 5 April and 18 July 2000.

In view of the above, your application for relief beyond that effected by CMC 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

Enclosures

Copy to:
The Honorable Strom Thurmond



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

1974-00

IN REPLY REFER TO:
1610
MMER/PERB
14 MAR 2000

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 MAJOR
[REDACTED], USMCR

Ref: (a) Major [REDACTED] DD Form 149 of 12 Jan 00
(b) MCO 1610.7A w/Ch 1-4
(c) MCO P1610.7B w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 9 March 2000 to consider Major [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 760705 to 760901 (AT) -- Reference (b) applies
- b. Report B - 810518 to 820204 (AC) -- Reference (c) applies

2. The petitioner contends that Report A is "erroneous, derogatory, and biased." He points out that the occasion (Item 3a) should have been "AC" vice "AT" and cites the Reporting Senior's use of the term "school" to substantiate his position. In addition, the petitioner takes exception with references to him not being aeronautically adaptable and states there is neither medical documentation nor flight log entries to corroborate this situation. Finally, the petitioner alleges that the report is "salted with bias" and furnishes his insight into his beliefs. Concerning Report B, the petitioner opines that the report appears to have been "graphically altered", and was done so after leaving the Reporting Senior and Reviewing Officer. As an additional issue relative to Report B, the petitioner argues that [REDACTED] Reviewing Officer comments are derogatory and biased and should have been referred to him for comment.

3. In its proceedings, the PERB concluded that:

- a. Report A is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED], USMCR

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A and the modified version of Report B should remain a part of [REDACTED] official military record. The corrective actions identified in subparagraph 3b are considered sufficient.

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



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

1974-00
IN REPLY REFER TO:

1000
RAM

5 Apr 00

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

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

1. Recommend disapproval of [REDACTED]'s request for removal of his failure of selection on the FY00 Reserve Lieutenant Colonel Selection Board.

2. We reviewed [REDACTED]'s petition and his request for removal of his failure of selection [REDACTED] predicated his request on the removal from his record of the fitness reports covering the periods from 760705 to 760901 and 810518 to 820204. The Performance Evaluation Review Board reviewed the petition and denied [REDACTED]'s request.

3. When the FY00 Lieutenant Colonel met in April 1999, the reports in question were over 17 years old. Viewed in context with the fitness reports received from September 1976 until May 1981, the petitioned reports do not appear remarkable in terms of Section B marking or Section C comments. During this period, the record shows trends of less-than-outstanding Section B markings in Handling Officers, Handling Enlisted, Training Personnel, Cooperation, Judgement, Force, Leadership, Personal Relations, and Economy of Management. With this in mind, we do not believe removal of the petitioned reports would make a material difference in the overall competitiveness of the record. Consequently, we do not recommend approval of [REDACTED]'s request for removal of his failure of selection.

4. The point of contact at Reserve Affairs concerning this matter
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
Lieutenant Colonel
U.S. Marine Corps Reserve
Assistant Head,
Personnel Management Branch
Reserve Affairs Division
By direction of the
Commandant of the Marine Corps

1610
MMER/PERB
16 JUN 2000

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 MAJOR
[REDACTED] USMCR

Ref: (a) [REDACTED]s DD Form 149 of 16 Mar 00
(b) MCO P1610.7B w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 12 June 2000 to consider Major [REDACTED] petition contained in reference (a). Modification was requested to the following fitness reports:

- a. Report A - 820601 to 820711 (CD)
- b. Report B - 830330 to 830509 (FA)

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

2. The petitioner contends that certain narrative comments in both reports contain erroneous perceptions, injustices, and adversely affect his overall performance of record. Thus, he believes that both reports warrant correction to alleviate a "career injustice."

3. In its proceedings, the PERB concluded that:

a. Report A is both administratively correct and procedurally complete as written and filed. Report A was occasioned by the petitioner's change of duty from Battery Executive Officer to that of Battery Commanding Officer. The Section C comments extolling the petitioner's qualities to be chosen to take command are not somehow invalidated by expungement from his record of the subsequent fitness report. There was no way the Reporting Senior for Report A could have foreseen that eventuality. As such, the evaluative comments contained in Report A stand on their own merit.

b. The correction requested to Report B is warranted as has been directed.

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] SMCR

- 4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A should remain as configured.
- 5. The case is forwarded for final action.

[REDACTED]
 [REDACTED] Marine Corps
 Deputy Director
 Personnel Management Division
 Manpower and Reserve Affairs
 Department
 By direction of the Commandant
 of the Marine Corps

1974-00



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

IN REPLY REFER TO:
1610
CMT
18 Jul 00

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

Subj: ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] USMCR

Ref: (a) Performance Review Evaluation Review (PERB) Advisory
Opinion on [REDACTED] 16 Jun 00

1. Recommend disapproval of M [REDACTED]'s request for removal
of his failure of selection on the FY00 Reserve Lieutenant
Colonels Selection Board.

2. We have reviewed M [REDACTED]'s petition and his request for
removal of failure of selection. This review was predicated
upon the action taken in reference (a), the correction to a
fitness report dated 830330 to 830509. This correction entailed
removing a reviewing officer's single sentence from Section C of
a non-observed report.

3. When the FY00 Reserve Lieutenant Colonels Selection Board met
the fitness report in question was over 15 years old. His
overall record since 830509 shows less than outstanding trends
in Handling of Officers, Personal Relations and Economy of
Management. Additionally, he was ranked in the Excellent to
Outstanding block on his 960101 to 961231 fitness report. In
this context the correction to the fitness report in question
does not significantly change Major [REDACTED]'s overall record of
performance nor does it change [REDACTED] competitiveness for
promotion.

4. The point of contact at Reserve Affairs concerning this
matter is [REDACTED]

[REDACTED]

Major, U. S. Marine Corps Reserve
Assistant Head, Career Management Team
Reserve Affairs Division