



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 3763-00

30 June 2000

CAPT [REDACTED] USMCR  
[REDACTED]  
[REDACTED]

Dear Captain [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 29 June 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 26 May 2000, a copy of which is attached. They also considered your rebuttal letter dated 10 June 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. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They were unable to find that your contested fitness reports omitted matters so significant that they should have been mentioned expressly. They did not agree with your contention that your designations as a mission instructor and helicopter aircraft commander contradicted the reviewing officer's comments. 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



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
26 MAY 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  
CAPTAIN [REDACTED] USMC

Ref: (a) Captain [REDACTED] DD Form 149 of 15 Mar 00  
(b) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 May 2000 to consider Captain [REDACTED]'s petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 970720 to 980212 (CH)
- b. Report B - 980213 to 980806 (DC)

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

2. The petitioner contends that the Reviewing Officer's comments appended to both reports are unjust, vague, and inaccurate. He also believes that the performance evaluation system was used as a punitive measure in connection with personality differences. To support his appeal, the petitioner furnishes his own statement and copies of designation letters (Terrain Flight Instructor and Air Refueling Instructor).

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:

a. Not only was the petitioner aware of the nature of both reports when he signed Item 22 on each document, but he was contacted by this Headquarters on 26 August 1998 and 3 February 1999 and offered an opportunity to officially acknowledge and respond to both reports. On both occasions he failed to respond to this Headquarters' correspondence. Consequently, both reports were correctly entered into the petitioner's official record, along with documentation verifying the attempts to obtain rebuttal statements. Finally, the petitioner was personally contacted by a member of the Personnel Management Support Branch

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(MMSB) on 23 March 1999 and confirmed his decision to not respond.

b. The petitioner's performance of record, as documented by the Reporting Senior, speaks for itself. That the Reviewing Officer did not totally concur does not somehow invalidate the report. Likewise, the undocumented disclaimer to counseling is not reason to either remove or modify the report.

c. As a final matter, the Board finds nothing in reference (a) to substantiate the petitioner's allegation that a "personality difference" somehow tainted the overall evaluations contained in the challenged fitness reports. Succinctly stated, the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports should remain a part of Captain [REDACTED]'s 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