



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 4319-00

18 August 2000

LTCOL [REDACTED] USMC

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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 August 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 (HQMC) Performance Evaluation Review Board (PERB), dated 16 June 2000, and the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 18 July 2000, copies of which are attached. They also considered your rebuttal letter dated 27 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 in finding that the contested fitness report should stand. They particularly noted that the reporting senior's letters to your promotion boards did not clarify what new information he had gained concerning your performance during the period in question. They further observed that he did not submit a revised fitness report for the period concerned. Since the Board found no defect in your performance record, they had no basis to strike your failure by the Fiscal Year 2001 Lieutenant Colonel Selection Board, or adjust your lineal standing to reflect your selection by that promotion board. 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

Enclosures

4319-00

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], USMC

Ref: (a) Major [REDACTED] DD Form 149 of 29 Mar 00  
(b) MCO P1610.7D 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). Removal of the fitness report for the period 970414 to 970731 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the report should have been a "not observed" evaluation. He bases this contention on the fact that his own duties, coupled with the short reporting period and operational tempo of the unit, precluded the Reporting Senior from gaining meaningful knowledge of performance, responsibilities, accomplishments, and character. Thus, he opines that Colonel [REDACTED] was unable to render a fair, objective, and accurate evaluation of his performance. To support his appeal, the petitioner furnishes his own detailed statement wherein he points out that the report merely reflects input he gave to the Reporting Senior. Also furnished as documentary evidence are letters from both the petitioner and Colonel [REDACTED] to the Presidents of the 1998 and 1999 Lieutenant Colonel Selection Boards.

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

a. The advocacy statements authored by Colonel [REDACTED] to the two Lieutenant Colonel Selection Boards do nothing more than place the report into it's proper perspective. Ironically, those same statements, by confirming the absence of "daily" observation, confirmed that the challenged report was prepared exactly as directed by reference (b) (and with a mark of "frequent" in Item 18). To this end, the Board discerns neither an error nor an injustice.

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

b. The report at issue appears to be a legitimate, objective appraisal of performance during the stated period. The inference in Colonel [REDACTED] advocacy statement that he would, in retrospect, rate the petitioner differently, is considered more a product of the passage of time/opinion vice factual matter.

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

4319-00



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

IN REPLY REFER TO:

1600  
MMA-4  
18 Jul 00

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

Subj: BCNR PETITION FOR LIEUTENANT COLONEL [REDACTED]  
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
Lieutenant Colonel [REDACTED] 302 USMC  
of 6 Jul 00

1. Recommend disapproval of Lieutenant Colonel [REDACTED] request for removal of his failure of selection.
2. Per the reference, we reviewed Lieutenant Colonel [REDACTED] record and petition. He failed selection on the FY00 USMC Lieutenant Colonel Selection Board and was selected on the FY01 Lieutenant Colonel Selection Board. Subsequently, he unsuccessfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Annual fitness report of 970414 to 970731. Lieutenant Colonel [REDACTED] requests removal of his failure of selection.
3. In our opinion, removing the petitioned report would have increased the competitiveness of the record. However, the unfavorable PERB action does not reflect a material change in the record as it appeared before the FY00 Board and his record received a substantially complete and fair evaluation by the board. Therefore, we recommend disapproval of Lieutenant Colonel [REDACTED] request for removal of his failure of selection.
4. Point of contact is Major [REDACTED]

[REDACTED]

Colonel, U.S. Marine Corps  
Head, Officer Assignments Branch  
Personnel Management Division