



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

BJG  
Docket No: 5329-01  
16 August 2001

MAJ [REDACTED] USMC  
[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.

You requested removal of your fitness report for 1 August 1999 to 7 April 2000. You also requested removal of your failure by the Fiscal Year (FY) 2002 Lieutenant Colonel Selection Board and consideration by a special selection board (SSB). Finally, you requested that your lieutenant colonel date of rank and effective date be adjusted to reflect selection by the FY 2002 promotion board. Your last request was not considered, as you have not been selected for or promoted to lieutenant colonel.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your contested fitness report.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 August 2001. 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 29 June 2001 with enclosure, the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 25 June 2001, and the memorandum for the record dated 13 August 2001, copies of which are attached. They also considered your rebuttal letter dated 1 August 2001 with enclosures and first endorsement.

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 warranting removal of your failure of selection for promotion. Notwithstanding

your letter of 1 August 2001 and its endorsement and enclosures, including the letter of 1 August 2001 on your behalf from the former director of the HQMC Personnel Management Division, they substantially concurred with the MMOA-4 advisory opinion in finding that your selection by the FY 2002 promotion board would have been definitely unlikely, even if your record had not included the later removed fitness report. Since they found insufficient basis to remove your failure of selection, they had no grounds to recommend granting you an SSB. 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

5329-01



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

IN REPLY REFER TO:

1610  
MMER  
29 Jun 01

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

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]  
[REDACTED] USMC

- Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 20 Jun 01
- (2) CMC Advisory Opinion 1610 MMOA-4 of 25 Jun 01
- (3) Copy of CMC ltr 1610 MMER/PERB of 29 Jun 01

1. As evidenced by enclosure (1), PERB removed from Major [REDACTED] official military record, the fitness report for the period 990801 to 000407 (TD).

2. We defer to BCNR on the issue of [REDACTED]'s request for the removal of his failure of selection to the grade of Lieutenant Colonel. Enclosure (2) is furnished to assist in resolving that matter.

3. By enclosure (3), this Headquarters provided [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED]

Head, Performance Evaluation  
Review Branch  
Personnel Management Division  
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

5329-61

IN REPLY REFER TO:  
 1610  
 MMER/PERB  
 20 JUN 2001

From: Commandant of the Marine Corps  
 To: [REDACTED] USMC  
 [REDACTED]

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
11 Apr 00	[REDACTED]	990801 to 000407 (TD)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]



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

5329-01

IN REPLY REFER TO:

1600  
MMAA-4  
25 Jun 01

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

Subj: BCNR PETITION FOR [REDACTED]  
USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
[REDACTED] USMC  
of 21 Jun 01.

1. Recommend disapproval of [REDACTED] request for removal  
of his failure of selection.

2. Per the reference, we reviewed [REDACTED] record and  
petition. [REDACTED] failed selection on the FY02 USMC  
Lieutenant Colonel Selection Board. He successfully petitioned the  
Performance Evaluation Review Board (PERB) to remove the To  
Temporary Duty Fitness Report for the period 990801 to 000407.  
[REDACTED] requests removal of his failure of selection.

3. In our opinion, the favorable PERB action marginally  
enhances the competitiveness of the record, but not enough to  
warrant removal of the failure of selection. Moreover, Major  
[REDACTED] record contains others areas of competitive concern  
that, more than likely, led to his failure of selection.

a. **MOS Credibility.** [REDACTED] switched from the 0802  
MOS to the 0180 MOS in November of 1991. In the next five  
years, he has had only 36 months of observed time. Of the 36  
months, only 19 were in observed adjutant billets. When  
compared to his peers, this lack of observed performance as an  
adjutant is not competitive for promotion to Lieutenant Colonel.

b. **Value and Distribution** [REDACTED] rankings are  
one above and zero below as a Second Lieutenant. His rankings  
are one above and one below as a First Lieutenant and three  
above five below as a Captain. His ranking as a Major is two  
above and four below [REDACTED] cumulative ranking is  
seven above and ten below. This distribution is not competitive  
for promotion especially in light of the limited amount of  
observed performance in the Marine's primary MOS.

Subj: BCNR PETITION FOR MAJ [REDACTED]  
[REDACTED] USMC

c. **Relative Value.** The relative value of the report pulled by the PERB report was 3/100, at time of processing, and 9/91.53 cumulative. The record's competitiveness, with respect to Relative Value, decreased when the report was pulled.

4. In summary, the favorable PERB action marginally enhances the competitiveness of [REDACTED]'s record but not enough to warrant removal of the failure of selection. Moreover, the record contains other areas of competitive concern that, more than likely, contributed to his failure of selection. Therefore, we recommend disapproval of [REDACTED]' request for removal of his failure of selection.

5. POC is [REDACTED] a [REDACTED].

[REDACTED]

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

MEMORANDUM FOR THE RECORD

DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)  
PERFORMANCE SECTION  
2 NAVY ANNEX, SUITE 2432  
WASHINGTON, DC 20370-5100  
TELEPHONE: DSN 224-9842 OR COMM (703) 614-9842  
FAX: DSN 224-9857 OR COMM (703) 614-9857

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DATE: 13AUG01

DOCKET NO: [REDACTED]

PETITIONER (PET): [REDACTED] USMC

PARTY CALLED: [REDACTED]

TELEPHONE NUMBER: [REDACTED]

WHAT I SAID: I ASKED [REDACTED] THE HQMC MMOA-4 WOULD BE WILLING TO PREPARE A NEW AO IN PET'S CASE ILO HIS REBUTTAL AND FLAG OFFICERS' ENDORSE.

WHAT PARTY SAID: [REDACTED] INFORMED ME THAT THE HQMC MMOA-4 WAS UNWILLING TO PREPARE A NEW AO IN PET'S CASE.

[REDACTED]