



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

BJG
Docket No: 5333-01
26 July 2001

[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.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your contested fitness report for 1 August to 31 December 1998.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 July 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, and the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 25 June 2001, copies of which are attached. They also considered your rebuttal of 25 July 2001 to the MMOA-4 opinion.

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 advisory opinion from MMOA-4 in finding that your selection by the Fiscal Year 2002 Lieutenant Colonel Selection Board would have been definitely unlikely, even if the later removed fitness report had not been in your record. Concerning paragraph 3.a of the opinion, they found that among your first 12 observed fitness reports, you received seven marks of "EX" (excellent) and one mark of "AA" (above average). In view of the above, the Board denied relief beyond that effected by CMC.

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

5333-01



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 980801 to 981231 (CH).

2. We defer to BCNR on the issue of [REDACTED] 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]

DA [REDACTED]
Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps

5332-01



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

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

From: Commandant of the Marine Corps

To: [REDACTED]
8 [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>
22 Jan 99	[REDACTED]	980801 to 981231 (CH)

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]

By direction

5323-01



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

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 MAJOR [REDACTED]
USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Ma [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 Change of
Reporting Senior Fitness Report for the period 980801 to 981231.
[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. [REDACTED]
[REDACTED] record contains other areas of competitive concern that
likely contributed to his failure of selection.

a. **Section B Marks.** [REDACTED] record contains a
Section B trend of Excellent marks in Force on nine of his first
twelve fitness reports. He is also marked Excellent in Economy
of Management as a Major.

b. **Section C / Reviewing Officer Comments.** [REDACTED]
has a number of less-than-competitive comments as a field grade
to include, "Constantly striving to complete all challenges for
the upcoming ten month Maintenance Cycle for Maritime
Prepositioning Force," and "Promote with peers, Performed well
in a highly demanding fast paced environment." The latter
comment was accompanied by a "B" mark in courage from the
Reporting Senior. These comments and marks are not consistent
with those of his peers.

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

c. Value and Distribution. [REDACTED] rankings are two above and zero below as a Second Lieutenant. His rankings are ten above and seven below as a First Lieutenant. He is ranked seven above and ten below as a Captain, and five above with three below as a Major. His total value and distribution is twenty-four above and twenty below. This distribution is not competitive for promotion.

4. In summary, the favorable PERB action marginally enhances the competitiveness of [REDACTED] 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 [REDACTED] request for removal of his failure of selection.

5. POC is [REDACTED]

[REDACTED]

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