



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

BJG
Docket No: 5450-01
26 July 2001

MAJ [REDACTED] USMC
[REDACTED]
A [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.

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 10 July 2001, a copy of which is attached. They also considered your rebuttal letter dated 19 July 2001 with enclosures.

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 the reviewing officer erred by stating he had "sufficient" observation to render his evaluation, nor did they find that the contested marks he assigned you in section K3 contradicted his comments. Since the Board found no defect in your performance record, they had no basis to strike your failure by the Fiscal Year 2002 Lieutenant Colonel Selection 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

Enclosure



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

5450-01
IN REPLY REFER TO:
1610
MMER/PERB
10 JUL 2001

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 27 Apr 01
(b) MCO P1610.7E
(c) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 3 July 2001 to consider Major [REDACTED] petition contained in reference (a). Removal of the marks in Section K3 from the following fitness reports was requested:

- a. Report A - 980622 to 990731 (CH) - Reference (b) applies
- b. Report B - 990801 to 000531 (CH) - Reference (c) applies

2. The petitioner contends the Reviewing Officer's marks on both reports are inconsistent with his commentary in Section K4. To support his appeal, the petitioner furnishes letters from each of the two Reporting Seniors.

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. Colonels [REDACTED] and [REDACTED] seem a little misguided in their respective advocacy letters, inferring and implying Brigadier General [REDACTED] assessments should be in consonance with theirs. Section K of the fitness report is the purview and prerogative of the Reviewing Officer. While Reporting Seniors are free to offer recommendations, the Reviewing officer has no obligation to accept or mirror any such recommendations. Furthermore, the Reviewing Officer does not have to justify or explain his or her assessment of the Marine reported on to the Reporting Senior's satisfaction.

- b. In both reports, Brigadier General [REDACTED] marked Section K2 "concur", thereby validating the Reporting Seniors'

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assessments. What Colonels [REDACTED] be overlooking is they are evaluating only the petitioner while Brigadier General [REDACTED] evaluating him against all Majors he has even known. This is a paradigm shift and concept that was not a part of the previous performance evaluation system.

c. How much the petitioner may have dealt with the Reviewing Officer on a face-to-face basis is not known. Likewise, what other means of observation may have been involved is also not known. What is certain, however, is that in Section K1 on both reports, Brigadier General [REDACTED] marked "sufficient." The foregoing notwithstanding, and regardless of what the petitioner and the Reporting Seniors may believe about the reviews on the challenged reports, there is no substantiation that warrants questioning the Reviewing Officer's veracity or integrity in presenting his reviews.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Sections K2 on the fitness reports at issue should be retained.

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