



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

BJG  
Docket No: 7122-01  
14 September 2001

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: MAJ [REDACTED], USMC, [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 12 Jul 01 w/attachment  
(2) HQMC MMER memo dtd 10 Sep 01 w/encl  
(3) HQMC MMOA-4 memo dtd 6 Sep 01  
(4) Subject's naval record

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the fitness reports for 22 June to 31 October 1990, 1 November 1990 to 28 June 1991, 29 June to 6 September 1991, and 15 December 1998 to 15 March 1999, copies of which are in enclosure (1) at Tabs A through D respectively. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of the contested fitness reports. Petitioner further requested removal of his failure of selection before the Fiscal Year 2002 Lieutenant Colonel Selection Board, so as to be considered by the selection board next convened to consider officers of his category for promotion to lieutenant colonel as an officer who has not failed of selection to that grade.

2. The Board, consisting of Messrs. Geisler, Morgan, and Taylor, reviewed Petitioner's allegations of error and injustice on 13 September 2001, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (3), the HQMC office having cognizance over the subject matter of Petitioner's request to strike his failure of selection for promotion has commented to the effect that this request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to lieutenant colonel as an officer who has not failed of selection for promotion to that grade.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

*Jonathan S. Ruskin*  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

*Robert D. Zsalmán*  
for W. DEAN PFEIFFER  
Executive Director



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

IN REPLY REFER TO:  
1610  
MMER  
10 Sep 01

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

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

- Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 5 Sep 01
- (2) CMC Advisory Opinion 1610 MMOA-4 of 6 Sep 01
- (3) Copy of CMC ltr 1610 MMER/PERB of 7 Sep 01

1. As evidenced by enclosure (1), PERB removed from Major [REDACTED] official military record, the fitness reports for the periods 900622 to 901031 (AN), 901101 to 910628 (CD), 910629 to 910906 (TR), and 981215 to 990315 (TR).

2. We defer to BCNR on the issue of Major [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 Major [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

IN REPLY REFER TO:  
1610  
MMER/PERB  
5 SEP 2001

From: Commandant of the Marine Corps  
To: Major [REDACTED] MC  
[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 reports:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
6 Oct 90	LtCo [REDACTED]	900622 to 901031 (AN)
28 Jun 91	LtCol [REDACTED]	901101 to 910628 (CD)
	LtCo [REDACTED]	910629 to 910906 (TR)
8 Apr 99	Ma [REDACTED]	981215 to 990315 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed reports. The memorandum will contain appropriate identifying data concerning the reports and state that they have 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 reports or the events which may have precipitated them, 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.

Subj: CORRECTION OF NAVAL RECORD

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.

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By direction



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

7122-01  
IN REPLY REFER TO:  
1600  
MMOA-4  
06 Sep 01

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

Subj: BCNR PETITION FOR MAJOR [REDACTED]

Ref: (a) MMER Request for Advisory Opinion in the case  
of [REDACTED] USMC  
of 6 Sep 01

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

2. Per the reference, we reviewed Maj [REDACTED] record  
and petition [REDACTED] failed selection on the FY02  
USMC Lieutenant Colonel Promotion Board. Subsequently, he  
successfully petitioned the Performance Evaluation Review  
Board (PERB) to remove the Annual fitness report of 900622  
to 901031, the Change of Duty fitness report of 901101 to  
910628, the Transfer fitness report of 910629 to 910906,  
and the Transfer fitness report of 981215 to 990315. Major  
[REDACTED] requests removal of his failure of selection.

3. The petitioned fitness reports contained serious  
competitive concerns that may have resulted in the failure  
of selection. Removal of these reports significantly  
increases the competitiveness of [REDACTED] record.  
Since the petitioned reports likely resulted in Major  
[REDACTED] failure of selection, we recommend approval of  
his request for removal of his failure of selection.

4. Point of contact is [REDACTED]  
[REDACTED]  
[REDACTED]

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