



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

BJG  
Docket No: 7123-01  
13 September 2001

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

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

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

Encl: (1) DD Form 149 dtd 20 Jul 01 w/attachment  
(2) HQMC MMRER 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 that his naval record be corrected by removing the reviewing officer's certification from his fitness report for 1 October 1991 to 24 August 1992, a copy of which is in enclosure (1) at Tab A. Enclosure (2) reflects the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of the contested certification. Petitioner also requested removing his failures of selection before the Fiscal Year (FY) 2000 through 2002 Colonel Selection Boards, so as to be considered by the selection board next convened to consider officers of his category for promotion to colonel as an officer who has not failed of selection to that grade (the FY 2003 Colonel Selection Board is scheduled to convene on 3 October 2001). Finally, he requested a special selection board.

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 limited 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 failures 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 partial relief, specifically, removal of Petitioner's failures of selection for promotion.

The Board finds that Petitioner's request for a special selection board should be denied. In this connection, they note that his regularly scheduled promotion board is imminent; and they find that his consideration by the regular board, with a corrected fitness report record and status as not having failed of selection, will provide him sufficient relief.

In view of the above, the Board directs the following limited 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 colonel as an officer who has not failed of selection for promotion to that grade.

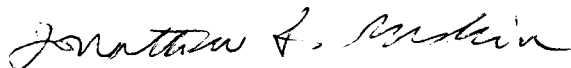
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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.

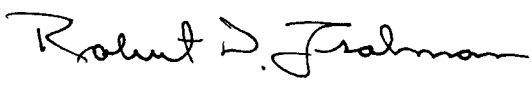
d. That Petitioner's request for a special selection board be denied.

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  
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.

  
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 LIEUTENANT COLONEL  
[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 Lieutenant Colonel [REDACTED] official military record, the entire Reviewing Officer's Certification from his fitness report for the period 911001 to 920824 (CD).

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

3. By enclosure (3), this Headquarters provided Lieutenant Colonel [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: Lieutenant Colonel [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 Reviewing Officer's Certification only for the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Reporting Period</u>
15 Nov 92	LtCol [REDACTED]	911001 to 920824 (CD)

2. There will be inserted in your Naval record a memorandum in place of the removed comments. The memorandum will state that the comments have been removed by order of the Commandant of the Marine Corps, and may not be made available to selection boards and other reviewing authorities; that such boards may not conjecture or draw inference as to the nature of the comments. In addition, the Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be modified by eliminating any indication of nonconcurrence by the Reviewing Officer.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failures 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



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

IN REPLY REFER TO:  
1600  
MMAA-4  
06 Sep 01

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 [REDACTED] USMC  
of 6 Sep 01

1. Recommend approval of Lieutenant Colonel [REDACTED] request for removal of his failures of selection.
2. Per the reference, we reviewed Lieutenant Colonel [REDACTED] record and petition. Lieutenant Colonel [REDACTED] failed selection on the FY00, FY01, and FY02 USMC Colonel Promotion Boards. Subsequently, he successfully petitioned the Performance Evaluation Review Board (PERB) to remove the Reviewing Officer Comments in the Change of Duty fitness report of 911001 to 920824. Lieutenant Colonel [REDACTED] requests removal of his failures of selection.
3. The Reviewing Officer comments in the petitioned fitness report contained serious competitive concerns that may have resulted in the failures of selection. Removal of these comments significantly increases the competitiveness of Lieutenant Colonel [REDACTED] record. Since the comments in the petitioned report likely resulted in Lieutenant Colonel [REDACTED] failures of selection, we recommend approval of his request for removal of his failures of selection.
4. Point of contact [REDACTED]

[REDACTED]

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