



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

BJG
Docket No: 7185-01
15 October 2001

MA [REDACTED] JSMC
[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 the contested fitness reports for 16 March to 31 July 2000 and 1 August to 13 December 2000.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 October 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, dated 12 September 2001 with enclosure, and the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 11 September 2001, copies of which are attached. They also considered your rebuttal letter dated 21 September 2001.

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 by the Fiscal Year 2002 Lieutenant Colonel Selection Board. In this connection, the Board substantially concurred with the comments contained in the advisory opinion from MMOA-4 in finding that your selection would have been definitely unlikely, even if your record had not included the later removed fitness reports. 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



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

IN REPLY REFER TO:

1610
MMER
12 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 23 Sep 01
- (2) CMC Advisory Opinion 1610 MMOA-4 of 11 Sep 01
- (3) Copy of CMC ltr 1610 MMER/PERB of 12 Sep 01

1. As evidenced by enclosure (1), PERB removed from Major [REDACTED] official military record, the fitness reports for the periods 000314 to 000731 (AN) and 000801 to 001213 (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

1610
MMER/PERB
23 AUG 2001

From: Commandant of the Marine Corps
To: Maj. [REDACTED] SMC
[REDACTED] 28541

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>
4 Aug 00	LtCol [REDACTED]	000314 to 000731 (AN)
Dec 00	LtCol [REDACTED]	000801 to 001213 (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.



7195-01



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

IN REPLY REFER TO:
1600
MMOA-4
11 Sep 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
Major [REDACTED] USMC
of 10 Sep 01.

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

2. Per the reference, we reviewed [REDACTED]'s record and
petition. Major [REDACTED] failed selection on the FY02 USMC Lieutenant
Colonel Selection Board. He successfully petitioned the Performance
Evaluation Review Board (PERB) to remove the Annual Fitness Report
for the period 000314 to 000731 and the Transfer Fitness Report for
the period 000801 to 001213. [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. **Section B Marks.** Major [REDACTED] record contains an early
Section B trend of Excellent marks in Administrative Duties. He
is also marked Excellent in Personal Appearance as a senior
captain and an Excellent in Tactical Handling of Troops and
Administrative Duties as a Major.

b. **Professional Military Education.** [REDACTED] was not
PME complete for his grade prior to the FY-02 Lieutenant Colonel
Selection Board.

Subj: BCNR PETITION FOR MAJOR [REDACTED]
USMC

c. **Value and Distribution.** [REDACTED]'s rankings are four above and nine below as a First Lieutenant. His rankings are seven above and sixteen below as a Captain. His rankings are thirteen above and six below as a Major [REDACTED] distribution as a major is not competitive to Lieutenant Colonel. His total value and distribution is twenty-four above and thirty-one below.

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, led to his failure of selection. Therefore, we recommend disapproval of [REDACTED]'s request for removal of his failure of selection.

5. POC is [REDACTED]

[REDACTED]

Lieutenant Colonel, U.S.M.C
Asst. Branch Head,
Officer Assignment Branch
Personnel Management Division