



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

BJG
Docket No: 839-02
25 February 2002

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 14 Jan 02 w/attachments
(2) HQMC MMER memo dtd 28 Jan 02 w/encl
(3) HQMC MMOA-4 memo dtd 25 Jan 02
(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 replacing the original fitness reports for 1 June 1999 to 31 May 2000 and 1 June to 23 August 2000, copies of which are in enclosure (1) at Tabs A and B, respectively, with revised reports for the same periods, copies of which are in enclosure (1) at Tabs C and D, respectively. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed the requested correction of Petitioner's fitness report record. He further requested removing his failure of selection by the Fiscal Year 2003 Colonel Selection Board, 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.

2. The Board, consisting of Ms. Moidel and Messrs. Morgan and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 21 February 2002, 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 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.

W. Dean Pfeiffer
W. DEAN PFEIFFER
Executive Director



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

839-02

IN REPLY REFER TO:

1610
MMER
28 Jan 02

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 24 Jan 02
(2) CMC Advisory Opinion 1610 MMOA-4 of 25 Jan 02
(3) Copy of CMC ltr 1610 MMER/PERB of 28 Jan 02

1. As evidenced by enclosure (1), PERB replaced in Lieutenant Colonel [REDACTED] official military record, the fitness reports for the periods 990601 to 000531 (AN) and 000601 to 000823 (TR).
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

879-02



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

IN REPLY REFER TO:

1610
MMER/PERB
JAN 24 2002

From: Commandant of the Marine Corps

To: Lieutenant Colonel [REDACTED] USMC

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>
30 Apr 01	[REDACTED]	990601 to 000531 (AN)
30 Apr 01	[REDACTED]	000601 to 000823 (TR)

2. The documents being removed from your record will be replaced with fitness reports covering the same periods, completed by [REDACTED]. In addition, the Performance Evaluation System (the data base that generates your Master Brief Sheet) will be modified 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



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

839-02

IN REPLY REFER TO:

1600
MMA-4
25 Jan 02

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 Lieutenant Colonel [REDACTED]
USMC of 24 Jan 02

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

2. Per the reference, we reviewed Lieutenant Colonel
[REDACTED] record and petition. Lieutenant Colonel [REDACTED] failed
selection on the FY03 USMC Colonel Promotion Board.
Subsequently, he successfully petitioned the Performance
Evaluation Review Board (PERB) to remove and replace the
Annual fitness report of 990601 to 000531 and the Transfer
fitness report of 000601 to 000823. Lieutenant Colonel
[REDACTED] requests removal of his failure of selection.

3. The petitioned fitness reports contained competitive
concerns that may have resulted in the failure of
selection. Removal of these reports increases the
competitiveness of Lieutenant Colonel [REDACTED]'s record.
Because the petitioned reports may have resulted in
Lieutenant Colonel [REDACTED] failure of selection, we
recommend approval of his request for removal of the
failure of selection.

4. Point of contact is [REDACTED]

[REDACTED]

Colonel, U. S. Marine Corps
Deputy Director
Personnel Management Division