



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

en

BJG
Docket No: 5114-02
11 July 2002

MAJ E [REDACTED] USMC
[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 July 2002. 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 Performance Evaluation Review Board (PERB), dated 3 June 2002, a copy of which is attached.

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. Accordingly, 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

IN REPLY REFER TO:
1610
MMER/PERB
JUN 03 2002

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
██████████, ██████████, USMC

Ref: (a) Maj ██████████'s DD Form 149 of 3 Apr 02
(b) MCO P1610.7E w/Ch 1-2
(c) MCO 1610.12 (USMC Counseling Program)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 29 May 2002 to consider Major ██████████'s petition contained in reference (a). Removal of the fitness report for the period 000801 to 010731 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report violates policies and instructions contained in references (b) and (c). He points out that the fitness report at issue denotes a significant decline in performance from the immediately preceding performance evaluation. It is his position that he was never counseled concerning either his performance or his billet description. He further argues the Reviewing Officer had virtually no understanding of his responsibilities in that role and that he had insufficient observation to render a fair and accurate assessment. To support his appeal, the petitioner furnishes his own statement, copies of the challenged and immediately preceding fitness reports, and a letter from ██████████

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. At the outset, the Board emphasizes that the petitioner provides nothing to substantiate the absence of counseling by his Reporting Senior. Logic certainly dictates that based on the petitioner's prior 12-month term with Colonel ██████████ in the same billet, he was well aware of his expectations at the beginning of the period covered by the challenged fitness report. The Board does not accept the petitioner's undocumented assertion that he "never" received direction, guidance, and

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[REDACTED] USMC

leadership during his two years under Colonel [REDACTED] Reporting Senior authority. In this regard, the board observes that counseling can and does occur in many styles and forms, some of which may not be readily discernible by the recipient.

b. Since each report is for a finite period, with a differing set of circumstances and challenges, fluctuations in grades are presumed to be nothing more than a measure of degree in what areas the intensity and application of effort were required. While the report at issue does have a change in six attribute gradients from the prior evaluation, the overall report documents positive and successful performance. Nothing in the six lower marks presupposes the sudden emergence of deficiency or fault on the petitioner's part. Rather, it was his own level of effort and performance during the period that warranted the assigned grades. Finally, the petitioner fails to document precisely how or why he rated anything other than what has been recorded.

c. Notwithstanding the statement by [REDACTED] there is no showing that Major General [REDACTED] did not have sufficient information to accomplish his Reviewing Officer action. Lacking proof to the contrary, it must be presumed that he made himself aware of his inherent responsibilities and rendered his review in a fair and accurate manner.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Major [REDACTED] official military record.

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