



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

BJG
Docket No: 8075-02
15 November 2002

LTCOL [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Col [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 15 November 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 12 September 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.

The Board did not find the reviewing officer (RO) comments ambiguous, nor did they find his comments violated the prohibition against damning with "faint praise." They found no conflict between the RO's comments and those of the reporting senior. They were unable to find the RO perceived any deficiency or deterioration in your performance. They noted the "comparative assessment" reflects how the RO compared you with your peers known to him. The language in the fitness report order to the effect that the performance evaluation process should not surprise the Marine concerned does not mean the Marine should know, ahead of time, exactly what marks and comments an upcoming fitness report will include. Finally, they found the RO's evaluation did, in fact, indicate you had done a good job.

In view of the above, 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

4075-02

IN REPLY REFER TO:
1610
MMER/PERB
SEP 12 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
LIEUTENANT COLONEL [REDACTED], USMC

Ref: (a) LtCol [REDACTED] DD Form 149 of 17 May 02
(b) MCO P1610.7E w/Ch 1-2
(c) MCO 1610.12 (Marine Corps Counseling Program)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 5 September 2002 to consider Lieutenant Colonel [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 010601 to 010724 (CD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report fails to comply with references (b) and (c). He specifically identifies the Reviewing Officer's assessment and comments as "adverse" and believes he should have been given an opportunity to acknowledge and respond. The petitioner further states the Reviewing Officer never admonished, counseled, or otherwise advised him that his performance had declined to the point that his placement in the comparative assessment would be lower than on the prior report (also reviewed by Major General [REDACTED]). To support his appeal, the petitioner furnishes his own detailed statement and copies of the challenged and prior fitness reports.

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 what Major General [REDACTED] proffered in his review of the fitness report at issue contains absolutely nothing negative or adverse concerning the petitioner's performance. The fact that he concurred with the Reporting Senior's extended evaluation does not somehow invalidate how the petitioner was ranked in the Comparative Assessment (Item K3) on the challenged fitness

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report. In the two additional months covered by the report, the Reviewing Officer's perspective obviously changed.

b. There is nothing in reference (b) that requires either a Reporting Senior or Reviewing Officer to provide a mirror-image of a prior evaluation. Each report chronicles a snapshot in time and reflects a judgmental evaluation for that period alone. Additionally, neither references (b) nor (c) require specific counseling by the Reviewing Officer prior to that official rendering their action on a fitness report.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Lieutenant Colonel [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