



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

BJG
Docket No: 8086-02
15 November 2002

M. [REDACTED] USMC
[REDACTED]
[REDACTED]

De [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 modification of the contested fitness report for 29 December 1992 to 26 April 1993 by removing the last sentence of the reviewing officer's comments.

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. They did not find any inconsistency between the reporting senior's comments and the two "EX" (excellent) marks he assigned you. 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

Enclosure



DEPARTMENT OF THE NAVY
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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 MAJOR
[REDACTED] USMC

Ref: (a) Maj [REDACTED] DD Form 149 of 18 Jun 02
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 5 September 2002 to consider Major [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 921229 to 930426 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report should be eliminated because of the "unjust nature" of the "excellent" marks in Items 13e (Handling Enlisted Personnel) and 14i (Force) of Section B. Additionally, he believes the Reviewing Officer's comments are ambiguous and ". . . sustain the unclear nature of the entire report." To support his appeal, the petitioner furnishes his own detailed statement where he denies being counseled on any deficiencies.

3. In its proceedings, the PERB concluded that, with one exception, 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 a mark of "excellent" does not equate to a deficiency that required specific counseling. In this regard, the Board observes that counseling can and does take place in many styles and forms. Certainly the inherent relationship between the petitioner and his Reporting Senior (Battery Commander/Commanding Officer) would have ensured some type of performance feedback. At this juncture, some nine years after the fact, it is not possible to determine precisely to what extent such counseling or feedback occurred.

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[REDACTED] SMC

b. The Board agrees with the petitioner concerning the Reviewing Officer's action. By marking Block 3 of the Reviewing Officer's Certification, Colonel [REDACTED] clearly indicated his concurrence with the Reporting Senior's general value grading. His final sentence confuses the reader and appears gratuitous, at best. The Board does not, however, conclude that complete removal of the report is warranted. Instead, they have directed elimination of the objectionable verbiage (i.e., "I personally would have rated him as 4 of 4 in the OS block of GVS but the competition is exceptionally keen in his organization and I will bow to the RS who observes all on a daily basis.").

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