



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

BJG
Docket No: 9126-02
7 November 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: CWO [REDACTED], USMC [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 31 May 02 w/attachments
(2) HQMC MMER memo dtd 18 Oct 02 w/encl
(3) HQMC MMOA-4 memo dtd 8 Oct 02
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the fitness reports for 1 April 1996 to 31 March 1997, 1 April 1997 to 31 March 1998, and 1 April to 2 July 1998, copies of which are in enclosure (1) at Tabs A through C, respectively. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of the contested fitness reports. Petitioner further requested removal of his failures of selection before the Fiscal Year (FY) 2001 and 2002 Chief Warrant Officer 4 (CWO4) Selection Boards.

2. The Board, consisting of Messrs. McBride, Novello, and Schultz, reviewed Petitioner's allegations of error and injustice on 7 November 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. Petitioner submitted his application after having failed by the FY 2001 and 2002 CWO4 Selection Boards. He was selected by the FY 2003 promotion board, with an uncorrected fitness report record and status as having failed of selection.

c. In correspondence attached as enclosure (3), the HQMC office having cognizance over the subject matter of Petitioner's request to strike his failures 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:

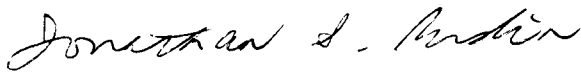
a. That Petitioner's naval record be corrected to show that he did not fail of selection by the FY 2001 and 2002 CWO4 Selection Boards.

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
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
Executive Director



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

9126-02

IN REPLY REFER TO:
1610
MMER
18 Oct 02

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]
[REDACTED] 48 0264, USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 26 Sep 02
(2) CMC Advisory Opinion 1610 MMOA-4 of 8 Oct 02
(3) Copy of CMC ltr 1610 MMER/PERB of 16 Oct 02

1. As evidenced by enclosure (1), PERB removed from CW03
[REDACTED] official military record, the fitness reports for the
periods 960401 to 970331 (AN), 970401 to 980331 (AN), and 980401
to 980702 (TR).

2. We defer to BCNR on the issue of [REDACTED] request for
the removal of his failure of selection to the grade of CW04.
Enclosure (2) is furnished to assist in resolving that matter.

3. By enclosure (3), this Headquarters provides [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



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

IN REPLY REFER TO:
1610
MMER/PERB
SEP 26 2002

From: Commandant of the Marine Corps
To: [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>
18 Apr 97	D [REDACTED]	960401 to 970331 (AN)
23 Apr 98	D [REDACTED]	970401 to 980331 (AN)
2 Jul 98	D [REDACTED]	980401 to 980702 (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.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval

Subj: CORRECTION OF NAVAL RECORD

record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

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By direction

9126-02



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

IN REPLY REFER TO:
1600
MMAA-4
8 Oct 02

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR [REDACTED]

Ref: (a) MMER Request for Advisory Opinion in the case of
[REDACTED] USMC
of 26 Sep 02

1. Recommend approval of [REDACTED] request for removal of his failures of selection.
2. Per the reference, we reviewed [REDACTED] record and petition. [REDACTED] failed selection on the FY01 and FY02 USMC CWO4 Selection Boards. He successfully petitioned the Performance Evaluation Review Board (PERB) to remove the following reports:

- (AN) 960401 to 970331
- (AN) 970401 to 980331
- (TR) 980401 to 980702

3. In our opinion, the petitioned fitness reports contained serious competitive concerns that may have resulted in the failures of selection. Removal of these reports significantly increases the competitiveness of [REDACTED] record. Therefore, we recommend approval of his request for removal of the failures of selection.

4. POC is [REDACTED]

[REDACTED]

Lieutenant Colonel, USMC
Head, Officer Counseling and
Evaluation Section
Personnel Management Division