



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

BJG  
Docket No: 7628-02  
25 November 2002

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

Subj: CWO3 [REDACTED] USN [REDACTED]  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 16 Apr 02  
(2) HQMC PERB memo dtd 26 Aug 02 w/encl  
(3) HQMC MMOA-4 memo dtd 22 Aug 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 report for 1 August to 25 November 1997, a copy of which is at Tab A. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of the contested fitness report. Petitioner further requested removal of his failures of selection before the Fiscal Year (FY) 2001 and 2002 Chief Warrant Officer 4 (CWO4) Selection Boards. After he had submitted his application, he also failed by the FY 2003 CWO4 Selection Board. It is presumed he also seeks removal of this failure, as he expressly requests consideration as an officer who has not failed of selection to CWO4.

2. The Board, consisting of Messrs. Agresti, Cooper and Zsalmán, reviewed Petitioner's allegations of error and injustice on 21 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. The PERB directed removing the contested fitness report after the FY 2001 and 2002 failures, but before the convening of the FY 2003 promotion board on 20 August 2002.

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 before the FY 2001 and 2002 CWO4 Selection Boards has commented to the effect that this request has merit and warrants favorable action. This opinion does not address the FY 2003 failure, as this failure occurred after the opinion had been submitted.

**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 requested relief. They agree with the advisory opinion in finding that Petitioner's FY 2001 and 2002 failures should be removed. They further find his FY 2003 failure should be removed as well, as that promotion board considered him in a failed of selection status; and his FY 2003 failure must be removed to restore him to the status he enjoyed before the FY 2001 promotion board, as an officer who has not failed of selection. In view of the above, they direct 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 CWO4 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.

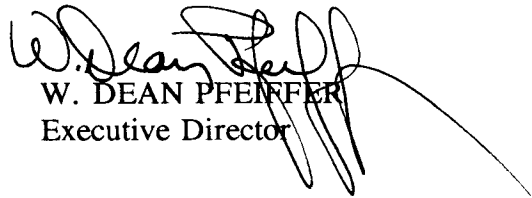
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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**  
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

IN REPLY REFER TO:  
1610  
MMER/PERB  
AUG 15 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 report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
8 Jan 98	Maj J B Sweeny III	970801 to 971125 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has 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 report or the events which may have precipitated it, 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 record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]



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

IN REPLY REFER TO:  
1600  
MMAA-4  
22 Aug 02

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

Subj: BCNR PETITION FOR CHIEF WARRANT OFFICER [REDACTED]

Ref: (a) MMER Request for Advisory Opinion in the case of  
[REDACTED] USMC  
of 15 Aug 02

1. Recommend approval [REDACTED] request for removal of his failure of selection. (S)

2. Per the reference, we reviewed [REDACTED] record and petition. [REDACTED] failed selection on the FY01 and FY02 USMC Chief Warrant Officer 4 Selection Boards. He successfully petitioned the Performance Evaluation Review Board (PERB) to remove the Transfer report from 970801 to 971125. [REDACTED] requests removal of his failure of selection. (S)

3. In our opinion, the favorable PERB action does increase the competitiveness of the record. However, with the petitioned report removed, [REDACTED] record still contains considerable competitive jeopardy. Most significantly, [REDACTED] was a member of the reserve component until midway through his time in grade as a CWO2. He has not been ranked against anyone as an officer and his fitness reports lack strong comments and recommendations.

4. In summary, the favorable PERB action did change the competitiveness of [REDACTED] record. Though we recognize that his record contains other competitive concerns, we believe CWO3 [REDACTED] should be afforded the benefit of the doubt and recommend approval of his request for removal of his failure of selection. (S)

5. POC: [REDACTED] 231.

[REDACTED SIGNATURE]

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