



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

BJG
Docket No: 159-03
24 January 2003

1STLT [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Lieutenant [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 24 January 2003. 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 20 December 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
DEC 20 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 FIRST
LIEUTENANT [REDACTED] USMC

Ref: (a) 1stLt [REDACTED] DD Form 149 of 5 Aug 02
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 December 2002 to consider First Lieutenant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 011211 to 020302 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report was intended as punishment and that it does not accurately portray his performance during the stated period. To support his appeal, the petitioner furnishes his own statement, a copy of the challenged fitness report, and a copy of the immediately preceding fitness report.

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. The Board acknowledges that the fitness report prior to the one at issue reflects higher markings in various attributes. However, it must be borne in mind that each performance appraisal documents and reflects overall performance during that finite period in time. Therefore, comparison with prior and subsequent fitness reports is simply not a valid gauge in determining validity.

a. In his statement included with reference (a), the petitioner has done little more than provide another rebuttal to this already properly adjudicated fitness report. Nothing in the way of substantiating or relevant material evidence has been preferred that would cause the Board to question either the accuracy or fairness of the challenged fitness report.

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Likewise, we find nothing to support the petitioner's belief that the report was intended as punishment. Instead, it appears to accurately depict the situation for which the petitioner took full responsibility. The Board is compelled to emphasize its position that to justify amendment or deletion of a fitness report, evidence of probable error or injustice should be produced. Such is simply not the situation in this case.

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