



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

an

BJG
Docket No: 1228-03
17 October 2003

CAPT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Captal [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.

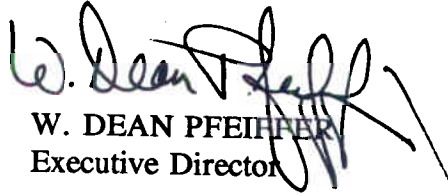
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 October 2003. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 advisory opinions furnished by Headquarters Marine Corps dated 6 and 18 March 2003, copies of which are attached. The Board also considered your rebuttal letter dated 17 June 2002 (sic) with enclosures.

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 was unable to find undue administrative delay in your removal from the Fiscal Year (FY) 2001 Captain Promotion List on 7 May 2001, so it was unable to find you should have been considered by the FY 2002 Captain Selection Board, which convened on 13 February 2001. 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

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
MANPOWER AND RESERVE AFFAIRS DEPARTMENT
HARRY LEE HALL, 17 LEJEUNE ROAD
QUANTICO, VIRGINIA 22134-5104

IN REPLY REFER TO:
1412/1
MMPR
MAR 06 2003

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

Subj: ADVISORY OPINION IN THE CASE OF CAPTAIN [REDACTED]
[REDACTED] USMC

1. If Captain [REDACTED] request for backdating is approved, his date of rank and effective date will be 1 August 2001. This is the date of rank he would have received upon selection from the FY02 USMC Captain Selection Board.

2. Point of contact [REDACTED] at [REDACTED]

[REDACTED]

By direction



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

1728-07

IN REPLY REFER TO:

1600
MMA-4
18 Mar 03

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

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: BCNR Request for Advisory Opinion in the case
of Captain [REDACTED] MC
of 26 Feb 03

1. Recommend disapproval of Captain [REDACTED] request for back-dating his date of rank.
2. Per the reference, we reviewed Captain [REDACTED] record and petition. Captain [REDACTED] was selected for promotion on the FY01 USMC Captain Promotion Board, but his promotion was withheld by the Secretary of the Navy. Captain [REDACTED] was not considered by the FY02 Board. Captain [REDACTED] was subsequently selected for promotion from the Above-Zone on the FY03 USMC Captain Selection Board. Captain Legge requests back-dating of his date of rank.
3. Captain [REDACTED] provides no justification for back-dating other than not being considered by the FY02 Board. His record before the FY02 Board should have included two additional reports since the FY01 Board. The first report was adverse and contained documentation of his alcohol related incidents and NJP. The second report was not observed. Captain [REDACTED] record before the FY03 Board contained three additional, very strong reports, which dramatically increased the competitiveness of his record.
4. In our opinion, Captain [REDACTED] record as it would have appeared before the FY02 Board would not have been competitive for promotion. The three additional reports, that appeared before the FY03 board, were the primary reason for his selection on that board. We recommend disapproval of his request back-dating his date of rank.

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

5. POC is [REDACTED] at [REDACTED]

[REDACTED]

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