



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

BJG
Docket No: 7065-03
28 August 2003

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

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

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

Encl: (1) DD Form 149 dtd 23 Jun 03 w/attachments
(2) HQMC MMER memo dtd 27 Aug 03 w/encl
(3) HQMC MMOA-4 memo dtd 21 Jul 03

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 original fitness report for 1 August 2001 to 21 June 2002, and replacing it with a revised report for the same period, copies of which are in enclosure (1) at Tabs A and B, respectively. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed the requested correction of Petitioner's fitness report record. He further requested removal of his failure of selection before the Fiscal Year 2004 Lieutenant Colonel Selection Board, so as to be considered by the selection board that next convenes to consider officers of his category for promotion to the grade of lieutenant colonel as an officer who has not failed of selection to that grade.

2. The Board, consisting of Messrs. Adams, Geisler and Zsalman, reviewed Petitioner's allegations of error and injustice on 28 August 2003, 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. In correspondence attached as enclosure (3), the HQMC office having cognizance over the subject matter of Petitioner's request to strike his failure 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:

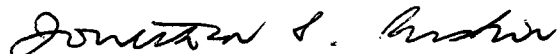
a. That Petitioner's record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to lieutenant colonel as an officer who has not failed of selection for promotion to that grade.

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.



For 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
27 Aug 03

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

Subj: BCNR APPLICATION IN THE CASE OF MAJOR [REDACTED]
[REDACTED] USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 27 Aug 03
(2) CMC Advisory Opinion 1610 MMOA-4 of 21 Jul 03

1. As evidenced by enclosure (1), PERB replaced [REDACTED] fitness report for the period 20010801 to 20020621 (TR).
2. We defer to BCNR on the issue of [REDACTED] request for the removal of his failure of selection to the grade of Lieutenant Colonel. Enclosure (2) is furnished to assist in resolving that matter.
3. Please note that with enclosure (1), this Headquarters provide [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

7065-03



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

IN REPLY REFER TO:
1610
MMER/PERH
AUG 27 2003

From: Commandant of the Marine Corps
To: [REDACTED] USMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

Encl: (1) Copy of CMC Advisory Opinion 1600 MMOA-4 of 21 Jul 03

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>
30 Jun 02	[REDACTED]	20010801 to 20020621 (TR)

2. There will be inserted in your naval record in place of the removed fitness report, the revised/corrected version included with your Application for Correction to Military Record (DD Form 149) of 23 June 2003.

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. As a matter of information, the enclosure is being furnished to BCNR for their consideration in resolving the issue of your request to remove your failure of selection before the FY04 USMC Lieutenant Colonel Selection Board.

[REDACTED]

By direction



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

IN REPLY REFER TO:
1600
MMAA-4
21 Jul 03

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

Subj: BCNR PETITION FOR MAJOR [REDACTED]
USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Major [REDACTED] USMC
of 01 Jul 03

1. Recommend approval of [REDACTED]'s request for removal of his failure of selection if the petitioned report is modified.
2. Per the reference, we reviewed [REDACTED]'s record and petition. [REDACTED] failed selection on the FY04 USMC Lieutenant Colonel Selection Board. [REDACTED] requests modification of the Transfer report dated 010801 to 020621. He also requests removal of his failure of selection.
3. In our opinion, the petitioned fitness reports contain competitive concerns that may have contributed to the failure of selection. The modification of the report would increase the competitiveness of [REDACTED]'s record. Therefore, we recommend approval of his request for removal of the failure of selection if the petitioned report is modified.
4. POC is [REDACTED]

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