



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

BJG  
Docket No: 1250-99  
28 April 1999

COL [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Colo [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has modified section C of the contested adverse fitness report for 6 July 1997 to 7 January 1998 by removing the reporting senior's references to your lack of experience.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 April 1999. 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 22 February 1999, a copy of which is attached. They also considered your rebuttal letter dated 20 April 1999 with enclosure.

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 for relief beyond that effected by CMC 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

1250-99

IN REPLY REFER TO:  
1610  
MMER/PERB  
FEB 22 1999

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  
COLONEL [REDACTED], [REDACTED] USMC

Ref: (a) Colonel [REDACTED] DD Form 149 of 12 Nov 98  
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 16 February 1999 to consider Colonel [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970706 to 980107 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report at issue is an aberration from all others in his record and believes it inaccurately records the facts. He also believes the report represents "bad blood" between him and the Reporting Senior (Colonel [REDACTED], owing to different leadership styles, poor Regimental Orders concerning freedom to abuse alcohol, and a weight control issue. It is the petitioner's position that the weight control matter was "the one that broke the camel's back" and pertained to the Battalion Career Planner (Staff Sergeant [REDACTED] who had been placed on weight control. To support his appeal, the petitioner furnishes copies of an e-mail from Staff Sergeant [REDACTED] concerning the weight control issue, his own fitness report for the period 980124 to 980521, and the challenged report.

3. In its proceedings, the PERB concluded that:

a. As stipulated by Brigadier General [REDACTED] in his review of the report, Colonel [REDACTED] commentary concerning the petitioner's previous experience is inappropriate. Likewise, the petitioner's response to those observations is also inappropriate. Consequently, to purify the record, the PERB has directed the following modifications to Colonel [REDACTED] evaluation, the petitioner's rebuttal, and Brigadier General Humble's Reviewing Officer comments:

(1) Fitness Report Form (Frame E9, 04 Fiche). Elimination of all comments beginning with "The Marine Corps. . ." and ending with ". . . is limited"

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(2) Standard Addendum Page 1 of 9 (Frame E11, 04 Fiche).  
Elimination of the first five lines.

(3) Standard Addendum Page 2 of 35 (Frame F7, 04 Fiche).  
Elimination of the entire last paragraph.

(4) Standard Addendum Page 3 of 35 (Frame F8, 04 Fiche).  
Elimination of all typed comments.

(5) Standard Addendum Page 4 of 35 (Frame F9, 04 Fiche).  
Elimination of the first two paragraphs (i.e., all above  
"Addendum page 1 of 9, para 2").

(6) Standard Addendum Page 1 of 9 (Frame D11, 05 Fiche).  
Elimination of the last three lines.

(7) Standard Addendum Page 2 of 9 (Frame D12, 05 Fiche).  
Elimination of the first four lines.

b. The remainder of the challenged fitness report is both administratively correct and procedurally complete as written and filed. In all matters, it comports fully with the provisions of reference (b). As a rule, attachments to fitness reports, other than the Standard Addendum Page, are now allowed. However, given the seriousness of the report and the fact that Brigadier General Humble accepted the additional enclosures and commented on them, they were accepted as part of the petitioner's official record. In this regard, the Board discerns no error or blatant disregard to the guidelines contained in reference (b).

c. The arguments surfaced by the petitioner in reference (a) are a reiteration of the same issues raised in his official statement of rebuttal. Unfortunately, he offers nothing new that Brigadier General ██████████ did not see or otherwise have available when he adjudicated and resolved the report. In fact, Brigadier General ██████████ nine-page adjudication addressed the petitioner's disagreements and satisfactorily resolved the petitioner's concerns.

d. In Staff Sergeant ██████████ e-mail transmission, he claims that "one of the senior Marines" in 4th Marines was seriously out of compliance with weight control standards. However, nowhere does he specifically identify the individual or grade of the individual. That issue notwithstanding, it does nothing to question the truth or accuracy of the fitness report.

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e. The petitioner's prior fitness report [REDACTED] to [REDACTED] which he cites as evidence that the challenged evaluation is inconsistent, was rendered by another set of reporting officials (Colonel [REDACTED] and [REDACTED]). Likewise, the subsequent report (980124 to 980521) documents performance at a different command and in a distinctly dissimilar assignment. Hence, neither report has any relevancy to the time frame of the fitness report under consideration.

f. The answer to the propriety and validity of the challenged fitness report rests with the credibility of Brigadier General [REDACTED]'s nine-page adjudication. In the final analysis, Brigadier General Humble recommended that Colonel [REDACTED] evaluation, the petitioner's rebuttal, and his review of the report should stand.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as modified, should remain a part of Colonel [REDACTED] official military record. The limited corrective actions identified in subparagraphs 3a(1) through 3a(7) are considered sufficient.

5. The case is forwarded for final action.

[REDACTED]

Brigadier General  
 U.S. Marine Corps  
 Director  
 Personnel Management Division  
 Manpower and Reserve Affairs  
 Department  
 By direction of the Commandant  
 of the Marine Corps