



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

BJG
Docket No: 1351-00
15 June 2000

1ST [REDACTED] USMCR
[REDACTED]
[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 15 June 2000. 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 (HQMC) Performance Evaluation Review Board (PERB), dated 22 February 2000, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division, dated 4 May 2000, copies of which are 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. Since the Board found no defect in your performance record, they had no basis to strike your failures by the Fiscal Year 2000 and 2001 Captain Selection Boards. 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

Enclosures



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

1351-00

IN REPLY REFER TO:
1610
MMER/PERB
22 FEB 2000

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], [REDACTED], USMC

Ref: (a) 1stLt [REDACTED]'s DD Form 149 of 22 Nov 99
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 16 February 2000 to consider First Lieutenant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 980701 to 990112 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report fails to provide an accurate description of his performance. He argues that his performance was evaluated based on an inaccurate billet description; specifically that bullets two through five in Section B are not part of the billet description for a Weapons Platoon Commander. He also takes exception with Sections D, E, F, G, and I and believes the entire report is retaliatory in nature. As a final matter, the petitioner challenges the ending date of the report and states it should be "990305" vice "990112." To support his appeal, the petitioner furnishes his own statement, a copy of an internal memorandum, and copies of previous versions of page five of the 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 report at issue is clearly adverse and justifications for each adverse marking were provided by the Reporting Senior, reviewed by the Reviewing Officer, and accepted by this Headquarters. The ambiguous rebuttal submitted by the petitioner did not specifically challenge individual attributes of the report; therefore, a lengthy adjudication was not required.

b. The petitioner's assertion of an incorrect ending date is in error. As directed by reference (b), individuals being detached/assigned temporary additional duty (TAD) in excess of 30 days are to be given "TD" (to TAD) reports. As the petitioner

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states, he was TAD to TEECG from 990115 to 990301. Accordingly, he should have received an "FD" (from TAD) report upon his detachment from TEECG on 990301.

c. Any billet description (Section B) is to be established by the Reporting Senior, in concert with the Marine reported on, within the first 15 days of a reporting relationship. Modifications and refinements to the billet description can continue to be made after that initial contact to more accurately reflect the responsibilities of the Marine reported on. There are no fixed, institutionalized, or mandatory billet descriptions approved or sanctioned by this Headquarters.

d. Consistent throughout the challenged fitness report are observed leadership deficiencies and substandard tactical and technical proficiency. Though the petitioner contends he was never counseled on any specific deficiencies, it appears that was not the case. As described in the petitioner's rebuttal, it is inconceivable to the Board that an Infantry Platoon Commander would be "unaware" of his Executive Officer's hospitalization if he were in anyway involved with the company. The petitioner also concedes he was nervous in the presence of seniors and peers alike. Yet he states his "... leadership is where it should be." While directly acknowledging shortcomings in his communication skills, the petitioner indirectly acknowledges poor judgment decisions, attempting to displace blame on others. The clearest indictment of his failure lies in his own rebuttal (to wit: "I am unwilling to ask for direction based upon this experience.").

e. The Reviewing Officer adjudication addresses these same deficiencies ("...continuously failed...ineffective; unengaged... received counseling/direction...with no improvement.").

f. The petitioner offers no evidence to support his claim of injustice or that each attempt to ensure the report was correct somehow contributed to an inaccurate evaluation. Finally, the petitioner's inference of a possible vendetta or retaliatory action is unsubstantiated and considered without merit.

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.

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LIEUTENANT [REDACTED], USMC

5. The case is forwarded for final action.

[REDACTED]

R.
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
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1351-00

IN REPLY REFER TO:
1600
MMOA-4
4 May 00

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

Subj: BCNR PETITION FOR FIRST LIEUTENANT [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
First Lieutenant [REDACTED]
USMC of 3 May 00

1. Recommend disapproval of First Lieutenant [REDACTED] implied request for removal of his failures of selection even had the petitioned report been removed from the record.

2. Per the reference, we reviewed First Lieutenant [REDACTED] record and petition. He failed selection on the FY00 and FY01 USMC Captain Selection Boards. Subsequently, he unsuccessfully petitioned the Performance Evaluation Review Board (PERB) for removal of the To Temporary Duty fitness report of 980701 to 990112. First Lieutenant [REDACTED] implies a request for removal of his failures of selection.

3. In our opinion, the petitioned report does present serious competitive concern to the record. However, First Lieutenant [REDACTED] has other areas of serious jeopardy in his record that more than likely contributed to his failure of selection.

a. **Section B Marks.** The record reflects less competitive Section B marks in Regular Duties, Administrative Duties, Handling Officers, Training Personnel, Tactical Handling of Troops, Military Presence, Attention to Duty, Initiative, Judgment, Force, Leadership, Personal Relations, and Growth Potential.

b. **Section C and Reviewing Officer Comments.** First Lieutenant [REDACTED] Section C comments are replete with growing comments.

Subj: BCNR PETITION FOR FIRST LIEUTENANT [REDACTED]
[REDACTED] USMC

4. In summary, we believe First Lieutenant [REDACTED]'s petition is without merit. His record received a substantially complete and fair evaluation by the Board. Had the petitioned report been removed by the PERB, his record would not have been significantly improved. First Lieutenant [REDACTED] record has other areas of competitive concern beyond the petitioned report that more than likely contributed to his failure of selection. Therefore, we recommend disapproval of First Lieutenant [REDACTED] implied request for removal of his failures of selection.

5. Point of contact is [REDACTED]



Lieutenant Colonel, U.S. Marine Corps
Head, Officer Career Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division