



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

BJG
Docket No: 5312-01
8 August 2001

LTCO [REDACTED] SMC
[REDACTED]
[REDACTED]

Dear Colonel [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 8 August 2001. 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 3 July 2001, and the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 31 July 2001, 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 in finding that your contested fitness report should stand. Since the Board found no defect in your performance record, they had no basis to strike your failures by the Fiscal Year 2001 and 2002 Colonel Selection Boards. 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
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
3 JUL 2001

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
LIEUTENANT [REDACTED], USMC

Ref: (a) LtCol [REDACTED] DD Form 149 of 21 Mar 01
(b) MCO P1610.7C w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 27 June 2001 to consider Lieutenant Colonel [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 870613 to 871031 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that given his background, training, experience, and length of time as the Operations Officer, certain comments within the Section C narrative imply a deficient level of performance. As such, the petitioner believes the report should have been processed as "adverse" prior to its incorporation into his official military personnel file.

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. Lieutenant Colonel [REDACTED] (the Reporting Senior) acknowledged the petitioner was filling a Major's billet. Given that fact, and notwithstanding the petitioner's beliefs otherwise, the full context of the Reporting Senior's comments convey that he (the petitioner) was more than pulling his weight. That the petitioner was learning and improving on the coordination of his myriad tasks and responsibilities are reasonable and understandable evaluative comments. Definitely nothing adverse.

b. For the petitioner to imply the Reporting Senior was somehow trying to portray him as lacking in his staff officer responsibilities is unsupported and unwarranted. To the contrary -- Lieutenant Colonel [REDACTED] rated him as "2 of 4"

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
LIEUTENANT COLONEL [REDACTED] USMC

outstanding captains, and in the aggregate, overall "2 of 8." That hardly equates to someone lacking as a performer.

c. The petitioner's argument that removing the challenged report from his records will improve competitiveness for promotion is immaterial. The issue is not the report's degree of competitiveness, but whether it is a true and accurate assessment of performance. Nothing provided by the petitioner counters or questions the report's honesty, accuracy, or impartiality.

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



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

IN REPLY REFER TO:
1600
MMA-4
31 May 01
July 01

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

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

Ref: (a) MMER Request for Advisory Opinion in the case of
Lieutenant Colonel [REDACTED]
USMC of 10 Jul 01.

1. Recommend disapproval of [REDACTED] Lieutenant Colonel request for removal of his failures of selection. (RB)

(RB) 2. Per the (Lieutenant Colonel) reference, we reviewed Ma (Lieutenant Colonel) record and petition. [REDACTED] failed selection on the FY-01 and FY-02 USMC Colonel Selection Boards. Subsequently, the Performance Evaluation Review Board (PERB) denied his request for removal of the Annual fitness report of 870613 to 871031. [REDACTED] requests removal of his failures of selection.

3. In our opinion (Lieutenant Colonel) record, as it appeared before the boards, was complete, accurate, and provided a fair assessment of his performance. Had the petitioned report been removed, the record would have been more competitive, enough so to warrant removal of the failures of selection. However, since the unfavorable PERB action did not change the competitiveness of the record, we recommend disapproval of [REDACTED] request for removal of his failures of selection.

4. POC is [REDACTED]

[REDACTED]

Colonel, U. S. Marine Corps
Head, Officer Assignment Branch
Personnel Management Division