



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

BJG
Docket No: 6835-01
4 October 2001

CAPT [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Captain [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 3 October 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 Performance Evaluation Review Board (PERB), dated 28 August 2001, a copy of which is 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. 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

Enclosure



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

6835-01

IN REPLY REFER TO:
1610
MMER/PERB
28 AUG 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
CAPTAIN [REDACTED] USMC

Ref: (a) Captain [REDACTED] DD Form 149 of 14 May 01
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 22 August 2001 to consider Captain [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 001219 to 010326 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is substantively and administratively inaccurate. He challenges the report's occasion, the period covered, the Reviewing Officer of record, and the listed duty assignment. He also points out that when compared to the immediately preceding report by the same Reporting Senior, there is a significant drop in performance. With regard to this situation, the petitioner denies any formal or informal counseling on diminishing performance. To support his appeal, the petitioner furnishes his own detailed statement, a letter from Lieutenant Colonel [REDACTED] (allegedly the correct Reviewing Officer), and an endorsement from the Assistant Chief of Staff, G-3 in the petitioner's current command.

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. Notwithstanding the information included with reference (a), the Board finds nothing to document or substantiate that the report is in error in any manner (i.e., occasion, inclusive dates, duty assignment, or Reviewing Officer). The fact of the matter is that Lieutenant Colonel [REDACTED] **was not** the Reviewing Officer for the challenged fitness report. For the last 52 days of the reporting period, his successor (Lieutenant Colonel

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CAPTAIN ██████████ USMC

██████████ was the Commanding Officer and the rightful Reviewing Officer of record.

b. While Lieutenant Colonel ██████████'s prior observations of the petitioner are a valid matter of record on four reports prior to the one at issue, that fact does not negate or invalidate Lieutenant Colonel ██████████'s responsibilities and assessment. In a deployable, fast-paced helicopter squadron, as is HMLA-367, 52 days is a reasonable time to allow a new Commanding Officer (Lieutenant Colonel ██████████) to be able to assess officers on his staff.

c. The petitioner's argument that the report is invalid because Captain ██████████ was also an Assistant AMO for the same period as the one covered by the fitness report under consideration is not germane. Many times a primary staff officer at the squadron or battalion level, and especially in a deployable unit mode, will have multiple assistants. The fact that the petitioner and Captain ██████████ were both AMO assistants was not unusual.

d. Since each performance appraisal is for a finite period and may very well differ from others by the same reporting officials, changing circumstances and challenges may result in dissimilar grades/rankings. In this regard, the Board emphasizes that comparing prior and subsequent fitness reports is not considered a valid gauge in determining accuracy or fairness. Simply stated, the petitioner has not documented precisely how or why he may have rated more than what has been recorded. Likewise, we find nothing to show he did not receive some type of performance counseling or feedback during the period.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Captain ██████████'s official military record.

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CAPTAIN [REDACTED] USMC

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