



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

BJG  
Docket No: 7632-01  
4 October 2001

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

Subj: MA [REDACTED], SMC [REDACTED]  
REVIEW OF NAVAL RECORD (RECONSIDERATION)

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

Encl: (1) Pertinent documents from BCNR file  
on Subject's prior case, docket no: 5329-01  
(2) HQMC MM memo dtd 2 Oct 01  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, at enclosure (1), with this Board requesting that his naval record be corrected by removing the fitness report for 1 August 1999 to 7 April 2000, a copy of which is at Tab A to enclosure (1). The Headquarters Marine Corps (HQMC) Performance Evaluation Review Board granted this request. He also requested removal of his failure of selection before the Fiscal Year (FY) 2002 Lieutenant Colonel Selection Board, so as to be considered by the selection board next convened to consider officers of his category for promotion to lieutenant colonel as an officer who has not failed of selection to that grade (the FY 2003 Lieutenant Colonel Selection Board is scheduled to convene on 16 October 2001). He further requested consideration by a special selection board. Finally, he asked that his lieutenant colonel date of rank and effective date be adjusted to reflect selection by the FY 2002 Lieutenant Colonel Selection Board. The Board did not consider his backdating request, as he had not been selected for or promoted to lieutenant colonel. On 15 August 2001, they denied his requests to remove his failure of selection and afford him a special selection board. His case before this Board was reopened in light of new evidence, the HQMC advisory opinion at enclosure (2).

2. The Board, consisting of Messrs. Lightle and Morgan and Neuschafer, reviewed Petitioner's allegations of error and injustice on 3 October 2001, and pursuant to its regulations, determined that the limited 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 Petitioner's prior case, the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), the office having cognizance over the subject matter of Petitioner's request to strike his failure of selection for promotion, provided an advisory opinion, Tab B to enclosure (1), recommending that this request be denied. In concurrence with that opinion, the Board denied removing Petitioner's failure of selection, finding that his selection by the FY 2002 Lieutenant Colonel Selection Board would have been definitely unlikely, even if his record had not included the later removed fitness report. As they had found insufficient basis to remove his failure of selection, they had no grounds to recommend Petitioner for a special selection board. Their denial letter is at Tab C to enclosure (1).

c. In the opinion at enclosure (2), the Director, HQMC Personnel Management Division, under whose authority MMOA-4 falls, has commented to the effect that Petitioner's request to remove his failure of selection has merit and warrants favorable action.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board now finds the existence of an injustice warranting partial relief, specifically, removal of Petitioner's failure of selection for promotion.

In finding that Petitioner's failure of selection to lieutenant colonel should be removed, the Board notes that the new advisory opinion at enclosure (2) effectively recommends this relief. They are now unable to find that his selection would have been definitely unlikely, had his record not included the later removed fitness report.

The Board still finds that Petitioner's request for a special selection board should be denied. In this connection, they note that his next regular selection board is imminent; and they are satisfied that his consideration by the regular selection board, with a corrected fitness report record and status as not having failed of selection, will provide him adequate relief.

In view of the above, the Board directs the following limited 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.

d. That Petitioner's request for a special selection board be denied.

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*  
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.

*W. Dean Pfeiffer*  
W. DEAN PFEIFFER  
Executive Director



DEPARTMENT OF THE NAVY  
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7632-01  
IN REPLY REFER TO:

1600  
MM  
2 Oct 01

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

Subj: BCNR PETITION FOR MAJOR [REDACTED]  
[REDACTED]

Ref: (a) MMOA ltr 1600 MMOA-4 of 25 Jun 01

1. Request BCNR reconsider the petition of [REDACTED] and delete the reference.
2. Since the Personnel Advisory Opinion memorandum was submitted, I have personally reviewed this case. In light of the additional information provided by the general officers and the Marine's record, I recommend the reference be expunged and his case be reconsidered by the BCNR.
3. Would appreciate your expeditious attention to this case as the Lieutenant Colonel Selection Board will convene on 16 Oct 01. Thank you for your attention in this matter.

[REDACTED]  
Brigadier General  
U.S. Marine Corps  
Director, Personnel  
Management Division