



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

BJG  
Docket No: 8309-01  
28 November 2001

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

Subj: CAPT [REDACTED], USMCR [REDACTED]  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 1 Aug 01 w/attachments  
(2) HQMC MMR memo dtd 16 Nov 01 w/encl  
(3) HQMC CMT memo dtd 15 Nov 01  
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the reviewing officer's certification from the fitness report for 3 May 1996 to 6 May 1997, a copy of which is at Tab A to enclosure (1). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of the contested certification. Petitioner further requested removal of his failure of selection before the Fiscal Year 2002 Active Reserve Major Selection Board, so as to be considered by the selection board that next convenes to consider officers of his category for promotion to the grade of major as an officer who has not failed of selection to that grade.

2. The Board, consisting of Messrs. Brezna, Pfeiffer, and Swarens, reviewed Petitioner's allegations of error and injustice on 28 November 2001, and pursuant to its regulations, determined that the 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 correspondence attached as enclosure (3), the HQMC office having cognizance over the subject matter of Petitioner's request to strike his failure of selection for promotion has commented to the effect that this request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting the following 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 major 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.

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  
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  
Executive Director



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

9309-01

IN REPLY REFER TO:

1610  
MMER  
16 Nov 01

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

Subj: BCNR APPLICATION IN THE CASE OF CAPTAIN [REDACTED]  
[REDACTED] USMCR

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 6 Nov 01  
(2) CMC Advisory Opinion 1610 CMT of 15 Nov 01  
(3) Copy of CMC ltr 1610 MMER/PERB of 16 Nov 01

1. As evidenced by enclosure (1), PERB removed from Captain [REDACTED] official military record, the Reviewing Officer's Certification included with his fitness report for the period 960503 to 970506 (TR).

2. We defer to BCNR on the issue of Captain [REDACTED] request for the removal of his failure of selection to the grade of Major. Enclosure (2) is furnished to assist in resolving that matter.

3. By enclosure (3), this Headquarters provided Captain [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED]  
[REDACTED]  
Head, Performance Evaluation  
Review Branch  
Personnel Management Division  
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

83090

IN REPLY REFER TO:  
 1610  
 MMER/PERB  
 6 NOV 2001

From: Commandant of the Marine Corps  
 To: Captain J [REDACTED] USMCR  
 [REDACTED]

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the Reviewing Officer's Certification only for the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Reporting Period</u>
6 May 97	[REDACTED]	960503 to 970506 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed comments. The memorandum will state that the comments have been removed by order of the Commandant of the Marine Corps, and may not be made available to selection boards and other reviewing authorities; that such boards may not conjecture or draw inference as to the nature of the comments.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]

By direction



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
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IN REPLY REFER TO:  
1610  
CMT  
15 Nov 01

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

Subj: REQUEST FOR ADVISORY OPINION ON BCNR APPLICATION;  
CASE OF [REDACTED] USMCR

Ref: (a) MMR Request for Advisory Opinion in the case of  
Captain [REDACTED] d 16 Nov 01

1. Per reference (a), we have reviewed Captain [REDACTED] record to determine his competitiveness for selection to major. In our opinion, Captain [REDACTED] record, without the reviewing officer comments from the fitness report for the period 960503 to 970506, would be more competitive with the majority of his peers based on the following:

a. Captain [REDACTED] fitness reports reflect no negative trends in any categories. Generally, he has been ranked 1 of 1 in the old fitness report system. In the two times he has been ranked against his peers he has been 1 of 2, and ranked in the excellent to outstanding block, with four above him.

b. Comments from the remaining fitness reports are positive from both reporting seniors and reviewing officers; "be willing to have him command a platoon," "High impact starter & quick study," "Augment now," "Top 10%-er," "ahead of peers" and "promote with peers."

c. Captain [REDACTED]'s PME complete for his grade. He has been awarded a Navy and Marine Corps Commendation Medal, and a Navy Achievement Medal. His most recent fitness report indicates a first class PFT score of 209.

2. Point of contact is [REDACTED]

[REDACTED]  
By direction