



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

BJG
Docket No: 5822-01
13 December 2001

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

Subj: MA [REDACTED] USMC [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 21 Mar 01 w/attachment
(2) Subject's ltr dtd 10 Jul 01
(3) HQMC MMER memo dtd 20 Jul 01 w/encl
(4) HQMC CMT memo dtd 17 Jul 01
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that the applicable naval record be corrected by removing therefrom the fitness report for 4 January to 30 April 2000. A copy of this report is at Tab A. As indicated in paragraph 3.c. below, the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of this report. By letter at enclosure (2), Petitioner amended his application to add a request for removal of his failure of selection before the Fiscal Year (FY) 2002 Reserve Lieutenant Colonel Selection Board, so that he will 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.

2. The Board, consisting of Messrs. Goldsmith, Neuschafer, and Zsalman, reviewed Petitioner's allegations of error and injustice on 22 August 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 which were available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Enclosure (3) is the report of the HQMC PERB in Petitioner's case. The report reflects the PERB decision to remove the contested fitness report. The report, a copy of which is at Tab A, was for Petitioner's service in his current grade of major. He was given marks of "B," the second lowest, in "courage," "effectiveness under stress," "developing subordinates," "setting the example," "ensuring well-being of subordinates" and "judgment"; "C," the third lowest, in "performance," "proficiency," "initiative," "leading subordinates" and "decision making ability"; and "D," the fourth lowest, in "communication skills" and "professional military education." The reviewing officer (RO) gave Petitioner a "comparative assessment" mark in the third lowest block, "one of the many qualified professionals who form the majority of this grade." The RO stated the following:

[Petitioner] is a capable individual with potential for continued professional development. Although he has contributed to this unit, he has not demonstrated the level of commitment nor dependability that his peers have shown. He has difficulty working within the chain of command. He is an individual contributor who must have clear direction and guidance.

d. Enclosure (4) is the advisory opinion from the HQMC Career Management Team (CMT) recommending denial of Petitioner's request to remove his failure of selection before the FY 2002 Reserve Lieutenant Colonel Selection Board. Their basis for this recommendation is as follows:

...
Removal of the fitness report in question will only marginally improve SNO's [Subject named officer's] competitiveness for promotion. [Petitioner's] overall record is less than competitive when compared with his peers. He has trends in the following areas: training personnel, attention to duty, initiative, judgement and economy of management. Additionally, when ranked against his peers, he is consistently ranked below them...

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding the contents of enclosure (4), the Board finds that Petitioner's failure of selection by the FY 2002 Reserve Lieutenant Colonel Selection Board should be removed. They are unable to find that his selection would have been definitely unlikely, if his record before that selection board had not included the later removed fitness report. In view of the above, the Board recommends the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval 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 this 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. 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. The foregoing report of the Board is submitted for your review and action.

W. Dean Pfeiffer
W. DEAN PFEIFFER

Reviewed and approved:

Joseph G. Lynch

JOSEPH G. LYNCH
Assistant General Counsel
(Manpower And Reserve Affairs)

JAN 17 2002

5822-01



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

IN REPLY REFER TO:

1610
MMER
20 Jul 01

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

Subj: BCNR APPLICATION IN THE [REDACTED]
[REDACTED] USMCR

- Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 2 Jul 01
- (2) CMC Advisory Opinion 1070 CMT of 17 Jul 01
- (3) Copy of CMC ltr 1610 MMER/PERB of 2 Jul 01

1. As evidenced by enclosure (1), PERB removed from Major [REDACTED] official military record, the fitness report for the period 000104 to 000430 (TR).
2. We defer to BCNR on the issue of [REDACTED] request for the removal of his failure of selection to the grade of Lieutenant Colonel. Enclosure (2) is furnished to assist in resolving that matter.
3. By enclosure (3), this Headquarters provided [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED]

Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps

1610
MMER/PERB
2 JUL 2001

From: Commandant of the Marine Corps
To: [REDACTED] SMCR

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 following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
1 Jul 00	[REDACTED]	000104 to 000430 (TR)

2. Since the period covered by the fitness report identified above is covered by another fitness report (000104-000507 (TR)), no "filler memorandum" will be inserted in place of the now-removed report.

[REDACTED] 10N



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

IN REPLY REFER TO:

1070
CMT
17 Jul 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: RESERVE AFFAIRS REVIEW OF FAILURE OF SELECTION
ADVISORY OPINION ON [REDACTED] APPLICATION; CASE OF MAJOR
[REDACTED] CMC

Ref: (a) CMC ltr 1610 MMR/PERB of 2 Jul 01

Encl: (1) [REDACTED] DD Form 149 of 21 Mar 01
(2) M [REDACTED] ltr of 10 July 01

1. We have reviewed reference (a) and enclosures (1) and (2) and provide the following comment [REDACTED] request for removal of failure of selection to Lieutenant Colonel.

2. Removal of the fitness report in question will only marginally improve SNO's competitiveness for promotion. [REDACTED]'s overall record is less than competitive when compared with his peers. He has trends in the following areas: training personnel, attention to duty, initiative, judgement and economy of management. Additionally, when ranked against his peers, he is consistently ranked below them.

3. Based on the information provided above, we do not recommend removal of the failure of selection.

4. The point of contact concerning this matter is Major [REDACTED] Commercial [REDACTED] 546

[REDACTED]

By direction