



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

BJG
Docket No: 7503-02
29 August 2002

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

Subj: CAPT. [REDACTED], USMC, [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 14 Jun 02 w/attachment
(2) HQMC MMER memo dtd 19 Aug 02 w/encl
(3) HQMC MMOA-4 memo dtd 19 Aug 02
(4) Subject's naval record

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting that his naval record be corrected by removing the original fitness report for 16 June to 31 August 2001, a copy of which is at Tab A to enclosure (1), and replacing it with a revised report for the same period, a copy of which is at Tab B to enclosure (1). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed the requested correction of Petitioner's fitness report record. He further impliedly requested removing his failure of selection by the Fiscal Year (FY) 2003 Major Selection Board, to be considered by the FY 2004 Major Selection Board, scheduled to convene on 4 September 2002, as an officer who has not failed of selection to major. Finally, he requested a special selection board (SSB).

2. The Board, consisting of Messrs. Geisler and Kim and Ms. LeBlanc, reviewed Petitioner's allegations of error and injustice on 29 August 2002, 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 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 limited relief, specifically, removal of Petitioner's failure of selection for promotion.

The Board finds Petitioner's request for an SSB should be denied. In this regard, they particularly note that the next regular promotion board is scheduled to convene imminently, on 4 September 2002. Further, they find that his consideration by a regular promotion 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 major as an officer who has not failed of selection for promotion to that grade.

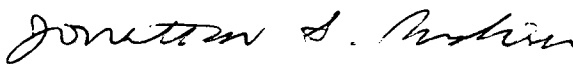
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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.


d. That Petitioner's request for an SSB 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
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.


FOR W. DEAN PFEIFFER
Executive Director



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

7503-02

IN REPLY REFER TO:
1610
MMER
19 Aug 02

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

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

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 15 Aug 02
(2) CMC Advisory Opinion 1610 MMOA-4 of 15 Aug 02
(3) Copy of CMC ltr 1610 MMER/PERB of 19 Aug 02

1. As evidenced by enclosure (1), PERB removed from Captain [REDACTED] official military record, the fitness report for the period 010616 to 010831 (CH).

2. We defer to BCNR on the issue of Captain [REDACTED]'s implied request for the removal of his failure of selection to the grade of Major and his request for a Special Selection Board. Enclosure (2) is furnished to assist in resolving the failure of selection matter.

3. By enclosure (3), this Headquarters provided Captain [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



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

IN REPLY REFER TO:
1610
MMER/PERB
AUG 15 2002

From: Commandant of the Marine Corps
To: Captain D. [REDACTED] USMC
[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 following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
24 Sep 01	[REDACTED]	010616 to 010831 (CH)

2. There will be inserted in your naval record in place of the removed report, the revised version completed by Lieutenant Commander [REDACTED] on 17 May 2002. In addition, the Performance Evaluation System (the data base that generates your Master Brief Sheet) will be modified accordingly.

3. Since the remainder of the relief you seek does not fall under the purview of the Performance Evaluation Review Board, your case is being forwarded to the Board for Correction of Naval Records (BCNR) for final resolution.

[REDACTED]

By direction



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

7503-02

IN REPLY REFER TO:

1600
MMOA-4
19 Aug 02

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

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Captain [REDACTED] USMC
of 15 Aug 02.

1. Recommend approval of Captain [REDACTED] implied request for removal of his failure of selection.
2. Per the reference, we reviewed Captain [REDACTED] record and petition. Captain [REDACTED] failed selection on the FY03 USMC Major Selection Board. He successfully petitioned the Performance Evaluation Review Board (PERB) to replace the Change of Reporting Senior report from 010616 to 010831.
3. In our opinion, the petitioned fitness report was a competitive concern that may have contributed to the failure of selection. Replacement of this report increases the competitiveness of Captain [REDACTED] record. Therefore, we recommend approval of his implied request for removal of the failure of selection.
4. POC is [REDACTED] an at [REDACTED]

[REDACTED]
S
Lieutenant Colonel, USMC
Head, Officer Counseling and
Evaluation Section
Personnel Management Division