



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

BJG
Docket No: 9235-02
26 November 2002

USMC

Dear

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.

It is noted that the Headquarters Marine Corps (HQMC) Performance Evaluation Section, Personnel Management Support Branch, Personnel Management Division (MMSB-30) has placed a memorandum in your record amending the contested fitness report to show you should have been ranked among five officers, rather than six; and that you should be ranked fifth of five.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 November 2002. 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 HQMC Performance Evaluation Review Board (PERB), dated 22 October 2002, 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

9235-02

IN REPLY REFER TO:
1610
MMER/PERB
OCT 22 2002

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 MAJOR
[REDACTED] USMC

Ref: (a) [REDACTED] DD form 149 of 2 Jul 02
(b) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 17 October 2002 to consider [REDACTED] petition contained in reference (a). Requested was a change to his ranking in the Reporting Senior's Certification on the fitness report for the period 980505 to 980731 (DC). Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that an administrative error occurred relative to his ranking on the challenged fitness report and is reflected as either "2 of 6" or "5 of 6." He states that the actual ranking could not be determined because of an illegible copy and that his actual ranking should be "1 of 6." To support his appeal, the petitioner furnishes a letter from the Reporting Senior of record, [REDACTED]

3. In its proceedings, the PERB concluded that the report, albeit illegible, is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Notwithstanding [REDACTED]'s letter, his conclusion that the petitioner should be ranked "1 of 6" does not appear to be based on any facts currently at his disposal. Likewise, no explanation has been given regarding the nature of the supposed administrative error.

b. Research of the observed fitness reports written by [REDACTED] for the period in question is documented in the Memorandum for the Record of 18 June 2002 and filed with the fitness report at issue. Copies of the reports on the petitioner's fellow officers reflect the following rankings:

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[REDACTED]

Captain [REDACTED] "1 of 6"; Captain [REDACTED] "2 of 6"; Captain [REDACTED] "3 of 6"; Captain [REDACTED] "4 of 6"; Captain [REDACTED] "N/A" (his was the "not observed" appraisal). There is one minor error in Major [REDACTED] total of observed reports that should have been reflected in Item 15b. Since [REDACTED] received a CD report ending 980715, the total should have been "5" vice "6." Regardless, based on the reports on record, the petitioner is not "1 of 6", but rather "5 of 5." The record has been so modified. Should a member of the BCNR staff desire to view the reports [REDACTED], [REDACTED] and Lindstrom, they are available in the PERB office. [REDACTED] the provisions of the Privacy Act, they have not been included herein.

4. The Chairperson of the PERB spoke with the Reporting Senior and advised him of the foregoing. He was adamant that he did not want the report under consideration to hamper the petitioner's future promotional opportunities and would, therefore, like to rewrite the evaluation as "not observed" and change the other reports accordingly. [REDACTED] was informed that such an action would need to be the subject of a future request by the petitioner to the PERB/BCNR.

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

6. 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