



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

22

BJG
Docket No: 6066-03
28 August 2003

MA [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Major [REDACTED]

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.

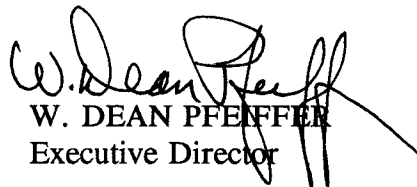
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 August 2003. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 16 July 2003, and the advisory opinion from the HQMC Officer Counseling and Evaluation Section, Personnel Management Division (MMOA-4), dated 28 May 2003, copies of which are 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. Since the Board found no defect in your performance record, they had no basis to strike your failures of selection by the Fiscal Year 2003 and 2004 Lieutenant Colonel Selection Boards. In view of the above, 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

Enclosures



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

6066-03

IN REPLY REFER TO:
1610
MMER/PERB
JUL 16 2003

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) Major [REDACTED]'s DD Form 149 of 7 May 03
(b) MCO P1610.7E w/Ch 1-2

Encl: (1) CMC Advisory Opinion 1600 MMOA-4 of 28 May 03

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 9 July 2003 to consider Major [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 20000801 to 20010504 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the Reviewing Officer's remarks are prejudicial/vague and allow for misinterpretation. This, he believes can be viewed as "adverse", and most likely, the primary reason for his recent non-selection for promotion.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. Simply stated, the Reviewing Officer added positive and constructive statements concerning the petitioner's professional qualities and initiative and recommended him for command in the supporting establishment. Those comments are not, in any manner or form, adverse. To infer otherwise is not in keeping with the guidance established in reference (b).

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

5. The enclosure is furnished to assist in adjudicating Major [REDACTED] request for the removal of his failure of selection to the grade of Lieutenant Colonel.

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] USMC

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

6066-03



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

IN REPLY REFER TO:

1600
MMAA-4
28 May 03

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

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

Ref: (a) MMER Request for Advisory Opinion in the case of
Major [REDACTED] USMC
of 20 May 03.

1. Recommend disapproval of Major [REDACTED] request for removal
of his failures of selection.

2. Per the reference, we reviewed Major [REDACTED]'s record and
petition. [REDACTED] failed selection on the FY03 and FY04 USMC
Lieutenant Colonel Selection Boards. Major [REDACTED] requests
removal of the Transfer report from 000801 to 010504 and removal of
his failures of selection.

3. In our opinion, removal of the petitioned report would
slightly enhance the strength of the record, but not enough to
warrant removal of the failures of selection. Moreover, Major
[REDACTED] record contains others areas of competitive concern
that more likely contributed to his failures of selection.

a. **Value and Distribution.** Major [REDACTED] overall value
and distribution is thirty-two ranked above him and thirty-three
ranked below him. This value and distribution is not competitive
for promotion.

b. **Height, Weight, and Photo.** Major [REDACTED] record
before the board indicated a height of 75", a weight of 275
pounds, and a body fat percentage of 17%. Although within the
required body fat standards for a male Marine, he is fifty-five
pounds over his maximum weight limit. This is a highly unusual
measurement when compared to his peers being selected for
promotion. Additionally, Major [REDACTED]'s personal appearance
as reflected in his official photo is not competitive when
compared with those of his peers being selected.

c. **Similar Fitness Report.** The prior report for the period
990801 to 000731 has the same reporting senior and reviewing
officer as the petitioned report, however, it is overall a

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

weaker report than the petitioned report. The relative value is lower and the reviewing officer's mark is the same. With 12 reports, the cumulative relative value of this report is 80. The word picture on this report lacks recommendations and strong comments, however, the petitioned report does contain some. If the petitioned report were removed, many of the same concerns would still exist in the prior report.

4. In summary, removal of the petitioned report would slightly enhance the strength of Major [REDACTED]'s record but not enough to warrant removal of the failures of selection. Moreover, the record contains other areas of competitive concern that more likely led to his failures of selection. We believe it is definitely unlikely that he would have been selected if the report had been removed prior to the board. Therefore, we recommend disapproval of [REDACTED]'s request for removal of his failures of selection.

5. POC is [REDACTED] [REDACTED]

[REDACTED]

Lieutenant Colonel, USMC
Head, Officer Counseling and
Evaluation Section
Personnel Management Division