



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

BJG
Docket No: 6357-00
10 January 2002

LTCC [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Co [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 10 January 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 Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 19 September 2000, and the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division, dated 16 January 2001, 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 in finding the contested fitness report should stand. Since the Board found no defect in your performance record, they had no basis to strike your failure by the Fiscal Year 2002 Colonel Selection Board. 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

Copy to:

 USMCR (Ret)



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

IN REPLY REFER TO:
1610
MMER/PERB
19 SEP 2000

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
LIEUTENANT COLONEL [REDACTED] USMC

Ref: (a) [REDACTED] DD Form 149 of 10 Jul 00
(b) MCO P1610.7C w/Ch 1-3

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 13 September 2000 to consider Lieutenant Colonel [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 871016 to 880415 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the report contains marks that reflect unfavorably upon his personal attributes as a Marine officer. As such, he believes they are "adverse matter" as defined in Article 1122, U.S. Navy Regulations, as well as Marine Corps Order P1610.7E (Performance Evaluation System (PES)), and that he should have been afforded an opportunity to submit a statement of rebuttal.

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

a. At the outset, the Board emphasizes that reference (b)--not MCO P1610.7E--is the PES directive governing the report under consideration. The latter directive was published more than 11 years after the fact and pertains to a completely new and unrelated system.

b. Contrary to the petitioner's assertion, there is absolutely nothing adverse within the report. However, what it is by definition (paragraph 4004.3 of reference (b)) is an overall positive account of exemplary effort and accomplishment; a degree of accomplishment seldom achieved by others of the same grade.

c. Notwithstanding Colonel [REDACTED] letter at enclosure (1) to reference (a), the Board takes the position that when he signed Item 23 of the report over 12 years ago, he attested to the truth

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and accuracy of the evaluation. That appraisal was further solidified and concurred in by the Reviewing Officer. Simply stated, nothing furnished with reference (a) causes the Board to question the report's validity.

d. The Board finds it curious that Colonel [REDACTED] waited some 12 years for the opportunity to document his "considerable deliberation" regarding the report. The credibility of the entire Performance Evaluation System is not built on the advantage of hindsight, or on attempts at revisionism. No Reporting Senior is credibly expected to rekindle recollections and state how they should have rewritten a report that has been a long standing matter of record without presenting applicable documentation.

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

5. 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

6357-00



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

IN REPLY REFER TO:
1600
MMAA-4
16 Jan 01

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

Subj: BCNR PETITION FOR LIEUTENANT COLONEL [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Lieutenant [REDACTED]
USMC of 4 Jan 01

1. Recommend disapproval of Lieutenant Colonel [REDACTED]
implied request for removal of his failure of selection.

2. Per the reference, we reviewed Lieutenant Colonel [REDACTED]
record and petition. Lieutenant Colonel [REDACTED] unsuccessfully
petitioned the Performance Evaluation Review Board (PERB) for
removal of the To Temporary Duty fitness report of 871016 to
880415. Subsequently, he failed selection on the FY02 USMC
Colonel Selection Board. Lieutenant Colonel [REDACTED]'s petition
implies a request for removal his failure of selection.

3. In our opinion, the unfavorable PERB action does not change
the competitiveness of the record and had the petitioned fitness
report been removed it would not have significantly increased
the competitiveness of the record. Lieutenant Colonel
[REDACTED] record, as it appeared before the Board was complete,
accurate, and provided a fair assessment of his performance.
Therefore, we recommend disapproval of Lieutenant Colonel
[REDACTED] implied request for removal of his failure of
selection.

4. POC is [REDACTED]

[REDACTED]

Colonel, U. S. Marine Corps
Head, Officer Assignment Branch
Personnel Management Division