



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

BJG  
Docket No: 6721-00  
9 February 2001

MAJ [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear [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 8 February 2001. 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) in your case, dated 26 September 2000, and the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 23 January 2001, copies of which are attached. They also considered your rebuttal letter dated 26 October 2000 with enclosures.

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, except their comment to the effect that you voluntarily signed a blank fitness report.

The Board was unable to find that you were ranked unfairly with your peers, or that the contested fitness report should not have reflected that it was based on "daily" observation. In this regard, they noted that a reporting senior's observation need not be direct. Further, they noted that the letter dated 24 October 2000 from the lieutenant colonel you allege to have been your reporting senior for the last three months of the reporting period in question says he "was not [your] reporting senior," but he "did provide fitness report input to [your] reporting senior." They found his statement, in his letter dated 28 June 2000, that he did not provide, nor was he asked to provide "routine or daily reports of [your] performance" during

the "three-month split" did not, as you contend, establish that he provided no fitness report input for this period. Since the Board found no defect in your performance record, they had no grounds to remove your failure by the Fiscal Year 2001 Lieutenant 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

6721-00



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
26 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 MAJOR  
[REDACTED] USMC

Ref: (a) Major [REDACTED] DD Form 149 of 29 Jun 00  
(b) MCO P1610.7D w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 20 September 2000 to consider Major [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 960914 to 970710 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report contains both substantive and procedural errors that render it worthy of removal from his official military record. Specifically, he contends that (then) Major [REDACTED] should have been his Reporting Senior for the final three months of the reporting period since he was in the best position to observe and evaluate his performance. It is his position that during the split-ARG, Lieutenant Colonel [REDACTED] never observed his actual performance. He also states that he was required to sign three, undated, blank fitness reports as a precedent to receiving his permanent change of station orders. Consequently, he neither certified Section A of the report as being accurate; nor did he view the completed report until he received a copy in the mail. Finally, the petitioner believes the Reporting Senior's mark of "daily" in Item 18 and his relative ranking as "3 of 3" are inaccurate and unjust. To support his appeal, the petitioner furnishes statements from Captain [REDACTED] and Lieutenant Colonel [REDACTED] an HMM-261 alpha roster (LF6F), a copy of the challenged fitness report, an HMM-261 Split ARG Officers organizational wire diagram, and a copy of HMM-261 message 160940Z June 1997.

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. If, as the petitioner contends, he signed blank copies of the fitness report, then it is he who must accept responsibility for that decision. Absent anything to the contrary, it must be

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[REDACTED] USMC

presumed the petitioner did so voluntarily and was comfortable with the fact that Lieutenant Colonel [REDACTED] was his Reporting Senior for the entire period. This would seem to be the case since the petitioner has waited almost three years to now find fault with the evaluation. The foregoing notwithstanding, a signature in Item 22 does not somehow acknowledge agreement with the content of the evaluation. Even if the petitioner had viewed the completed report prior to its submission to this Headquarters, there is nothing to show that his disagreement (if there had been one at the time) would have caused the Reporting Senior to alter his marks or comments.

b. Since the petitioner was a Reporting Senior himself, and as the time of physical separation from Lieutenant Colonel [REDACTED] increased, he had ample opportunity to message Lieutenant Colonel [REDACTED] to complete a change of reporting senior (CH) fitness report effective upon the squadron split. [REDACTED] as the Detachment Alfa OIC aboard the USS Ponce, would then have become the Reporting Senior. This obviously never occurred because there was an understanding as to how fitness report procedures would be handled during the squadron split. This is evidenced in the final paragraph of enclosure (6) to reference (a) (i.e., "FITNESS REPORTS. REPORTING SENIORS HERE WILL BE WRITING FITNESS REPORT. OIC'S THERE HAVE TO SUBMIT BULLETS FOR THE FITNESS REPORTS.").

c. The message at enclosure (6) to reference (a) was sent to Major [REDACTED] as the Detachment Alfa OIC, and paragraph 3b solicited his bullets on performance of the Marines aboard the USS Ponce for the use of their Reporting Seniors aboard the USS Kearsarge. In his advocacy statement at enclosure (2) to reference (a), Lieutenant Colonel [REDACTED] claims he was never asked to nor did he provide directly to Lieutenant Colonel [REDACTED] any fitness report bullets on the petitioner. The directive at enclosure (6) to reference (a) was issued by the HMM-261 Squadron Commander, not Lieutenant Colonel [REDACTED]. Surely, the succinct comments in the narrative portion of the challenged fitness report regarding the petitioner's duties as the XO of the "split ARG" were furnished to the Reporting Senior by someone at Detachment Alfa.

d. Units being split during at sea deployments is not unusual, and for Lieutenant Colonel [REDACTED] to have remained as the petitioner's Reporting Senior for the entire period in question is not contrary to either the spirit or intent of

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[REDACTED] USMC

reference (b). The specifics of the report certainly appear to encompass and address the entire deployment period. In the final analysis, Lieutenant Colonel [REDACTED] ever prepared a fitness report on the petitioner; he does not contend he ever intended to do so at the time; and he does not offer how the petitioner's performance was any better than as addressed in the fitness report at issue.

4. 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.

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



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

IN REPLY REFER TO:

1600  
MMAA-4  
23 Jan 01

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 17 Jan 01

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

2. Per the reference, we reviewed [REDACTED] record and petition. He failed selection on the FY01 USMC Lieutenant Colonel Selection Board. Subsequently, he unsuccessfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Transfer fitness report of 960914 to 970710. [REDACTED] was selected for promotion on the FY02 USMC Lieutenant Colonel Selection Board. [REDACTED] requests removal of his failure of selection and implies a request to backdate his date of rank.

3. In our opinion, removing the petitioned report may have increased the competitiveness of the record. However, the unfavorable PERB action does not reflect a material change in the record as it appeared before the FY01 Board and his record received a substantially complete and fair evaluation by the Board. Notwithstanding the contested report, [REDACTED] was selected on the FY02 Board. Therefore, we recommend disapproval of [REDACTED] request for removal of his failure of selection.

4. Point of contact is Lieutenant Colonel [REDACTED] (703)  
[REDACTED]

[REDACTED]

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