



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

BJG
Docket No: 8069-02
22 November 2002

CAPT ██████████ USMC
██████████
██████████

Dear Capt ██████████

This is in reference to your application, dated 1 July 2002 with enclosures, for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. Your previous case, docket number 4628-02, in which you requested only removal of the original fitness report for 1 April to 18 June 2001, was denied on 13 June 2002. In your current application, you again request removing the original report, but you also add a new request to replace it with a revised report the reporting senior has submitted for the pertinent period. In light of the reporting senior's having submitted this revised report, your case has been reopened.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 21 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 current application, together with all material submitted in support thereof, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 12 September 2002, a copy of which is attached. They also considered your rebuttal letter dated 10 October 2002 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 they noted the revised report not only changed the section I comments, but also raised your mark in section G.1 from "B" to "C." The letter of 10 July 2002, in which the Board's staff informed you that your undated reply to the PERB report in your previous case did not warrant reconsideration, addressed the contentions you repeat in paragraph 2 of your letter dated 10 October 2002. In view of the above, the Board again voted to deny relief. The names and votes of the members of the panel will be furnished upon request.

While the Board voted not to file the revised fitness report in your record, they noted you could submit it to any future selection board, as an enclosure to correspondence from you to that selection board.

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

IN REPLY REFER TO:
1610
MMER/PERB
SEP 12 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
CAPTAIN [REDACTED] [REDACTED] [REDACTED]

Ref: (a) [REDACTED] DD Form 149 of 1 Jul 02
(b) MCO P1610.7E w/Ch 1-2
(c) PERB Advisory 1610 MMER/PERB of 13 May 02;
same subject
(d) BCNR ltr BJB 4628-02 of 13 Jun 02

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 5 September 2002 to consider Captain [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 010401 to 010618 (TR), and its replacement with a revised version, was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends it was not the intent of the Reporting Senior to submit an adverse report. To support his appeal, the petitioner furnishes copies of e-mail transmissions between him, the Reporting Senior [REDACTED], and the Chairperson of the PERB (Mrs. [REDACTED]).

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. The Board observes that the Reporting Senior's justification in submitting a revised report (Section I only) was because the original evaluation was ". . . only adverse because of wording." This statement is correct, and when the petitioner first challenged the report under consideration, the PERB afforded him an opportunity to acknowledge and respond. The actions taken in that regard are memorialized in reference (c) and were concurred in by reference (d).

b. Nothing has been furnished with reference (a) that documents any factual errors associated with the fitness report

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as originally submitted. Rather, the revised report has merely been altered to alleviate the adverse language.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Captain [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