



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 141-99
8 April 1999

MAJ [REDACTED] SMC
[REDACTED]
[REDACTED]

D [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has removed the reviewing officer certification from your fitness report for 1 October 1995 to 23 April 1996.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 April 1999. 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 5 January 1999 with enclosure, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMAOA-4), dated 28 December 1998, copies of which are attached. They also considered your rebuttal letter dated 8 March 1999 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 advisory opinion from MMAOA-4. Accordingly, your application for relief beyond that effected by CMC 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.

141-99

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

141-99

IN REPLY REFER TO:
1610
MMER
5 Jan 99

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

Subj: BCNR APPLICATION IN THE CASE OF MAJOR [REDACTED]
[REDACTED], USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 18 Dec 98
(2) CMC Advisory Opinion 1600 MMOA-4 of 28 Dec 98

1. As evidenced by enclosure (1), PERB removed from Major [REDACTED] official military record, the Reviewing Officer's Certification appended to his fitness report for the period 951001 to 960423 (TR).
2. We defer to BCNR on the issue of Major [REDACTED] request for the removal of his failure of selection to the grade of Lieutenant Colonel. Enclosure (2) is furnished to assist in resolving that matter.

[REDACTED]

Head, Performance Evaluation
Review Branch
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

141-99

IN REPLY REFER TO:
1610
MMER/PERB
DEC 18 1998

From: Commandant of the Marine Corps
To: Major [REDACTED] USMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11B

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the Reviewing Officer's comments only for the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Reporting Period</u>
undtd	[REDACTED]	951001 to 960423 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed comments. The memorandum will state that the comments have been removed by order of the Commandant of the Marine Corps, and may not be made available to selection boards and other reviewing authorities; that such boards may not conjecture or draw inference as to the nature of the comments.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]

By direction



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

IN REPLY REFER TO:

1600
MMAA-4
28 Dec 98

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

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

Ref: (a) MMR Request for Advisory Opinion in the case of
Major [REDACTED] USMC
of 18 Dec 98

1. Recommend disapproval of Major [REDACTED] request for removal of his failure of selection and a Special Selection Board (SSB).
2. Per the reference, we reviewed Major [REDACTED] record and petition. He failed selection on the FY99 USMC Lieutenant Colonel Selection Board. He successfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Reviewing Officer comments on the Transfer fitness report for the period 951001 to 960423. [REDACTED] requests removal of his failure of selection and an SSB.
3. In our opinion, the petitioned report presented some jeopardy to the record due to the Reviewing Officer ranking two officers above him and one below. While the PERB action enhances the competitiveness of the record, it does not significantly improve it.
4. We note the following areas of competitive concern in his record that more likely contributed in his failure of selection than the petitioned comments.
 - a. **Overall Value & Distribution as a Major.** [REDACTED] has thirteen officers ranked above him and fourteen below, placing him mid pack. We note, eight of the fourteen officers he is ranked above appear on the last three reports, covering the year prior to the board.
 - b. **Section B Marks.** [REDACTED] record contains trends of less competitive Section B marks in Judgment and Force. The less competitive mark in Military Presence as a major may indicate [REDACTED] had not performed up to the standards expected for his grade and experience and presents serious jeopardy to the record.

Subject: BCNR PETITION FOR MAJ [REDACTED]

c. Department Head billets. Major [REDACTED]'s performance as a department head for HMM-461 may have appeared less competitive than his peers. As the Logistics Officer he has seven officers ranked above him and only two below while receiving a less competitive Section B mark in Military Presence. As the Director of Standardization and Safety he has four officers ranked above him and only one below.

5. In summary, removal of the Reviewing Officer's comments from the petitioned report eliminates some competitive concern from the record. However, [REDACTED] record contains other areas of competitive concern that more likely contributed in his failure of selection than the petitioned comments. Therefore, we recommend disapproval of [REDACTED] request for removal of his failure of selection and an SSB.

[REDACTED]
Major, U.S. Marine Corps
Head, Officer Counseling and
Evaluation Section
Head, Officer Assignment Branch
Personnel Management Division