



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 1159-99

28 May 1999

LTCOL [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Colonel [REDACTED]

This is in reference to your letter dated 11 February 1999, seeking reconsideration of your previous application 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 1858-97, was denied on 17 October 1997. Your current case is a reconsideration of your request to remove your adverse fitness report for 1 December 1995 to 5 August 1996 and your failure by the Fiscal Year (FY) 1998 Reserve Colonel Selection Board. You are now also requesting removal of your failures by the FY 1999 and 2000 Reserve Colonel Selection Boards.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 27 May 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 letter, 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 memorandum from the Headquarters Marine Corps Personnel Management Division, Manpower and Reserve Affairs Department (MMER), dated 31 March 1999, a copy of which is attached. They also considered your rebuttal letter dated 26 April 1999.

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 memorandum from MMER. They also found that even if generals with authority over your reviewing officer, specifically, the Assistant Commandant of the Marine Corps and the Commanding General, Marine Forces Reserve, influenced his decision to relieve you for cause, this would not support setting aside your relief. Since they still found no defect in your performance record, they still had no basis to show you have not failed of selection for promotion. 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.

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

1159-99

IN REPLY REFER TO:

1610
MMER
31 Mar 99

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

Subj: REQUEST FOR RECONSIDERATION IN THE CASE OF LIEUTENANT
COLONEL [REDACTED] USMCR

Ref: (a) LtCol [REDACTED] ltr of 11 Feb 99 w/attachments

Encl: (1) LtCol. [REDACTED] BCNR Case File

1. I have reviewed the reference and all attachments, and conclude that the information and advocacy statements contained therein do not refute the facts as recorded in Brigadier General [REDACTED] comments appended to Lieutenant Colonel [REDACTED] fitness report for the period 951201 to 960805 (CD).

2. While the individuals furnishing statements on behalf of Lieutenant Colonel [REDACTED] may opine that an environment of "undue influence" by officers senior to Brigadier General [REDACTED] existed, I find no such showing. Conspicuously absent is anything from Brigadier General [REDACTED] that recants his actions and comments or subscribes to the existence of "undue influence."

3. I emphasize the PERB's previous position that Lieutenant Colonel [REDACTED] was relieved due to Brigadier General [REDACTED] loss of confidence in that officer's support of the Commandant's core values. This was well within the General's prerogative and a matter that has been correctly recorded via the performance evaluation system. As a Squadron Commander, Lieutenant Colonel [REDACTED] had an inherent obligation to stop the show rather than to just leave the premises. The guidance from the Commandant of the Marine Corps to all Marines is (and has been) "zero tolerance" in situations that are morally questionable. Simply stated, Lieutenant Colonel [REDACTED] erred and was held accountable.

Subj: REQUEST FOR RECONSIDERATION IN THE CASE OF LIEUTENANT COLONEL [REDACTED], USMCR

4. In view of the foregoing, I decline to have the PERB reconsider Lieutenant Colonel [REDACTED] case and return the enclosure without 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