



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

BJG
Docket No: 8096-99
25 February 2000

CAPT D. [REDACTED] NSMCR
[REDACTED]
[REDACTED]

Dear Capt. [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 24 February 2000. 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 27 December 1999, and the advisory opinion from the HQMC Career Management Team, Reserve Affairs Manpower Branch, Reserve Affairs Division, dated 14 January 2000, 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 that your contested fitness report should stand. In concluding that your request for a special selection board should be denied, the Board noted that they had found no defect in your fitness report record. Further, they concluded that inclusion of the Navy and Marine Corps Achievement Medal you say you were "recently authorized" would not have appreciably enhanced your competitiveness for promotion, and they observed that you should have ensured your record was complete before you were to be considered for promotion. 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



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

5096-99

IN REPLY REFER TO:
1610
MMER/PERB
27 DEC 1999

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] USMCR

Ref: (a) Captain [REDACTED] DD Form 149 of 18 Oct 99
(b) MCO P1610.7B w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 21 December 1999 to consider Captain [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 930101 to 930412 (CD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that the report is "unjust" and bases his argument on the geographical separation from the Reporting Senior (10+ miles), as well as a personal situation which he believes biased the Reporting Senior. To support his appeal, the petitioner furnishes his own statement.

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 petitioner's assertion that the Reporting Senior was located approximately ten miles away is not supported by any documentary evidence whatsoever. Nevertheless, even though that may have been the case, there appears to have been sufficient communication and observation to render the report as an observed evaluation. Given the content of the report, the Reporting Senior was obviously aware of the petitioner's accomplishments and failings. The Board also points out that a ten-mile separation is hardly a reasonable factor to consider as cause for insufficient observation and invalidation of the challenged fitness report.

b. The Reviewing Officer succinctly addressed the issue of the petitioner's personal affairs, both financial and marital, and was unable to provide detailed comment due to a lack of verifiable information. Lieutenant Colonel [REDACTED] did, however, dispel any perception that the evaluation may have been based on "off-duty distractions."

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED] USMCR

c. To justify the deletion or amendment of a fitness report, evidence of probable error or injustice should be produced. Such is simply not the situation in this case.

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 SIGNATURE]

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

8090-99

IN REPLY REFER TO:

1610
RAM
14 Jan 00

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

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

Ref: (a) MMR Request for Advisory Opinion in the case of
Captain [REDACTED]

1. Recommend disapproval of Captain [REDACTED] request for removal of failure of selection and to be considered by a Special Selection board.
2. Captain [REDACTED] petitioned the Performance Evaluation Review Board (PERB) for the removal of a CD fitness report for the period 930101 to 930412. The PERB denied Captain [REDACTED] request.
3. As Captain [REDACTED] record did not change, there are no grounds upon which to base removal of failure of selection or convening of a Special Selection board.
4. Point of contact regarding this matter is [REDACTED] at [REDACTED]

[REDACTED]

Major, U.S. Marine Corps
Assistant Head, Career Management Team
Reserve Affairs Manpower Branch
Reserve Affairs Division