



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

BJG
Docket No: 215-99
6 May 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: MA [REDACTED] USMCR [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 26 Oct 98 w/attachments
(2) HQMC PERB memo dtd 8 Jan 99 w/encl
(3) HQMC MMOA-4 memo dtd 6 Jan 99
(4) Memo for record dtd 14 Apr 99
(5) Memo for record dtd 3 May 99
(6) Memo for record dtd 3 May 99
(7) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by modifying two fitness reports, for 13 July 1996 to 30 June 1997 and 1 October 1997 to 15 January 1998, copies of which are at Tabs A and B, respectively. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed modification of the two contested fitness reports as requested. Petitioner impliedly requested removal of his failure of selection before the Fiscal Year (FY) 1999 Active Reserve Major Selection Board. He expressly requested consideration by a special selection board. This request was not considered, since Petitioner has been considered and selected by the FY 2000 Active Reserve Major Selection Board. As indicated at paragraph 3.d below, he has added a request for the lineal position, date of rank, and effective date in the grade of major he would have been assigned had he been selected by the FY 1999 Active Reserve Major Selection Board, vice the FY 2000 Active Reserve Major Selection Board.

2. The Board, consisting of Mses. Brown and Gilbert and Mr. Zsalman, reviewed Petitioner's allegations of error and injustice on 5 May 1999, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (3), the HQMC Reserve Affairs Manpower Branch, Reserve Affairs Division (MMOA-4) has advised that Petitioner's request to strike his failure of selection for promotion has merit and warrants favorable action.

c. In a memorandum for the record attached as enclosure (4), the HQMC Promotion Branch (MMPR-1) has advised that had Petitioner been selected by the FY 1999 Active Reserve Major Selection Board, he would have received a date of rank and effective date of 1 June 1998.

d. In a memorandum for the record attached as enclosure (5), Petitioner advised a member of the Board's staff that he had been promoted to major on 1 May 1999, and that he was modifying his application to request the date of rank and effective date he would have received had he been selected by the FY 1999 Active Reserve Major Selection Board.

e. In a memorandum for the record attached as enclosure (6), the HQMC MMOA-4 has advised that Petitioner's request to backdate his date of rank and effective date has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (3), (4) and (6), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's record be corrected by removing his failure by the FY 1999 Active Reserve Major Selection Board.

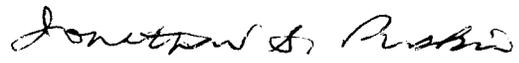
b. That Petitioner's naval record be corrected, where appropriate, to show his date of rank and effective date in the grade of major as 1 June 1998; and that his lineal precedence be adjusted accordingly.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PREIFFER
Executive Director

215-99



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

IN REPLY REFER TO:

1610
MMER
8 Jan 99

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

Subj: BCNR APPLICATION IN THE CASE OF CAPTAIN [REDACTED],
[REDACTED], USMCR

Encl: (1) Copy of CMC [REDACTED] 1610 [REDACTED] B of 30 Dec 98
(2) CMC Advisory Opinion 1600 MMOA-4 of 6 Jan 99

1. As evidenced by enclosure (1), PERB effected the requested corrections to Captain [REDACTED]'s fitness reports for the periods 960713 to 970630 (CH) and 971001 to 980115 (CH).

2. We defer to BCNR on the issue of Captain [REDACTED]'s request for the removal of his failure of selection to the grade of Major. 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

215-99



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

IN REPLY REFER TO:
1610
MMER/PERB
DEC 30 1998

From: Commandant of the Marine Corps

To: [REDACTED] G. [REDACTED]

Subj: CORRECTION TO NAVAL RECORD

Ref: (a) MCO 1610.11B

1. Per the provisions of the reference, the Performance Evaluation Review Board (PERB) has reviewed allegations of error and injustice in your Naval record.

2. Having reviewed all the facts, the Board has directed the following changes to the fitness reports identified:

a. 960713 to 970630 (CH)

(1) Item 5a: Change to read "NNA278"

(2) Section C: Addition of a statement that you were authorized an alternate weight of 220 lbs. **NOTE:** Statement of body fat percentage will not be added since that requirement did not become effective until November 1997.

(3) Inclusion of Reviewing Officer comments by Colonel Hernandez

b. 971001 to 980115 (CH)

(1) Item 5a: Change to read "NNA234"

(2) Section C: Addition of a statement that your body fat percentage was 16%

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
2 NAVY ANNEX
WASHINGTON, DC 20380-1775

215-479
1600 REFER TO:
MMA-4
06 Jan 99

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

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
USMCR

Ref: (a) MMEER Request for Advisory Opinion in the case of
Captain [REDACTED] MCR of 30 Dec 98

1. Recommend approval of Captain [REDACTED] request for removal of his failure of selection.
2. Per the reference, we reviewed Captain [REDACTED]'s record and petition. Captain [REDACTED] failed selection on the FY99 USMCR (AR) Major Selection Board. By the guidance of his MMOA Career Counselor, he successfully petitioned the Performance Evaluation Review Board (PERB) for the amendment of erroneous data on two (2) fitness reports.
3. On the 960713 to 970630 CH report, item 5a was changed from NNNMED (Not Medically able to perform Physical Fitness Test (PFT)) to read NNA278 (Performed PFT during reporting period with a score of 278), and a Section C statement was added to the effect that SNO was authorized an alternate weight of 220 lbs. On the 971001 to 980115 CH report, item 5a was changed from NNNMED to read NNA234, and a Section C statement was added to state that SNO's body fat percentage was 16%.
4. Captain [REDACTED] requests removal of his failure of selection based on material error of fact, or material administrative error. Specifically, Captain [REDACTED] feels that his record was significantly impeded due to the highlighting of physical limitations which were erroneous, possibly disqualifying, and in contrary to his career of demonstrated superlative physical performance.
5. It is impossible to speculate the specific causes for Captain [REDACTED]'s failure of selection on the FY99 USMCR (AR) Major Selection Board. Other competitive concerns remaining in the record may have contributed to Captain [REDACTED]'s failure of selection. These include: less-competitive trends in Administrative Duties, Training Personnel, Initiative, and Economy of Management, Value and Distribution with 9 officers ranked above him and 4 below, as well as the failure to attain "good" reserve years from 9112 to 9312. However, it is possible that the Board may have considered Captain [REDACTED] to be overweight, therefore

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
USMCR

unqualified for promotion. If this were the case, it was based on erroneous information. Therefore we recommend approval of Captain [REDACTED] request for removal of his failure of selection.

[REDACTED]

Lieutenant Colonel, U. S. Marine Corps

Reserve Affairs Manpower Branch
Reserve Affairs Division

MEMORANDUM FOR THE RECORD

BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)

[REDACTED]

2 NAVY ANNEX, SUITE 2432

WASHINGTON, DC 20370-5100

TELEPHONE: DSN 224-9842 OR COMM (703) 614-9842

FAX: DSN 224-9857, COMM (703) 614-9857, OR (815) 328-0742

E-MAIL: GEORGE.BRIAN@HQ.NAVY.MIL

DATE: 14APR99

DOCKET NO: [REDACTED]

PET: MAJ [REDACTED] USMCR

PARTY WHO I CALLED: [REDACTED] 1

TELEPHONE NO: (703) 784-9706

WHAT PARTY SAID: [REDACTED] INFORMED ME THAT HAD PET BEEN
SELECTED BY THE FY 1999 USMCR(A) MAJ SEL BD, HE WOULD HAVE
RECEIVED A DOR AND EFF DATE OF 1JUN98.

[REDACTED]

MEMORANDUM FOR THE RECORD

BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)
PERFORMANCE SECTION

2 NAVY ANNEX, SUITE 2432

WASHINGTON, DC 20370-5100

TELEPHONE: DSN 224-9842 OR COMM (703) 614-9842

FAX: DSN 224-9857, COMM (703) 614-9857, OR (815) 238-0742

E-MAIL: [REDACTED]@HQ.NAVY.MIL

DATE: 3MAY99

DOCKET NO: [REDACTED]

PET: MAJ [REDACTED], USMCR

PARTY I CALLED: [REDACTED] USMC, HQMC MMOA-4

TELEPHONE NO: (703) 784-9130

WHAT PARTY SAID: [REDACTED] INFORMED ME THAT HE HAD PREPARED THE AO IN PET'S CASE, AND THE [REDACTED] FULLY SUPPORTED THE BACKDATING OF HIS DOR AND EFF DATE OF HIS PROM TO MAJ, ESPECIALLY IN LIGHT OF PET BEING SELECTED ABOVE ZONE AFTER HIS RECORD WAS CORRECTED.

BRIAN J. GEORGE

