



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 4006-99

7 October 1999

MA [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear [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.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your fitness report for 28 April to 1 July 1990.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 October 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 23 September 1999, and the advisory opinion from the HQMC Officer Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 18 August 1999, copies of which are attached. They also considered your rebuttal letters dated 10 September 1999 with enclosures and 27 September 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. They noted that the advisory opinion from MMOA-4 is incorrect in stating that you had three, rather than four, officers ranked below you in your fitness reports as a major before the Fiscal Year 2000 Lieutenant Colonel Selection Board. They otherwise substantially concurred with the comments of MMOA-4. Since they found insufficient basis to remove your failure of selection to lieutenant colonel, they had no grounds to recommend you for a special selection board. In view of the above, your request 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. 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

24006-49



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

IN REPLY REFER TO:
1610
MMER/PERB
SEP 23 1999

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

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

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 following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
1 Jul 90	LtCol [REDACTED]	900428 to 900701 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

[REDACTED SIGNATURE]
By direction [REDACTED]



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

4006-99

IN REPLY REFER TO:

1600
MMOA-4
18 Aug 99

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

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

Ref: (a) MMER Request for Advisory Opinion in the case of
Major Gordon N. Houston [REDACTED] USMC
of 10 Aug 99

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. [REDACTED] failed selection on the FY00 USMC Lieutenant Colonel Selection Board. He bases his petition on material error and contends the following:

a. Three fitness reports were missing from his Official Military Personnel File (OMPF).

b. Thirteen fitness reports were illegible.

c. Three diplomas were missing from his OMPF.

d. Navy and Marine Corps Commendation Medal was missing from his OMPF.

e. Command and Staff Nonresident was not listed on the Master Brief Sheet (MBS).

f. Transfer fitness report from 900428 to 900701 contributed to his failure of selection. Additionally, he has petitioned the Performance Evaluation Review Board for removal of this report.

3. The record that [REDACTED] reviewed may have been incomplete and hard to read, however, the record as it appeared before the Board was substantially complete and accurate. After reviewing Board OMPF and records we have determined the following:

a. Transfer Report from 850604 to 850717 and Page 1 of Temporary Duty Report from 930927 to 940202 were not contained in the Board OMPF. Page 2 of Grade Change Report from 860628 to 860929 was contained in the Board OMPF. Additionally, all three

Subj: BCNR PETITION FOR MAJ [REDACTED] ON
[REDACTED] SMC

reports were coded onto the MBS and could have been reviewed in hard copy if requested by any Board member.

b. Major [REDACTED] contends that thirteen reports were illegible or hard to read. In our opinion, none of the sighted reports were illegible on the Board OMPF. The following should be noted:

(1) Semi-Annual Report from 840817 to 850131, Annual Report from 870701 to 871031, and Directed by the Commandant Report 880227 to 880923 were more difficult to read and required high magnification and some adjustments on the microfiche reader.

(2) Transfer Report from 900702 to 910531 is a legible *non-observed* academic report.

c. Amphibious Warfare School (Nonresident), Command and Control Systems Course and Marine Corps Command and Staff College (Nonresident) representing the three missing diplomas were all listed in the Military Education Block of the MBS. Therefore, Major Houston would have been considered as PME complete.

d. The missing Navy and Marine Corps Commendation Medal was listed on the MBS and the performance covered in the corresponding fitness report.

e. Command and Staff Nonresident was listed on the MBS. Major [REDACTED] probably used an unofficial copy of a MBS from the Manpower Assignment Support System (MASS). MASS doesn't recognize the code for a previous version of the Command and Staff Nonresident Course and instead prints out "T8E Unknown".

f. Transfer fitness report from 900428 to 900701 is a less competitive report and does present some jeopardy to the record. However, a two-month report does not usually make or break a 16-year career. In our opinion, removal of the contested report would be insufficient to make the record competitive with his peers. Additionally, his record contains other areas of competitive concern that more than likely led to his failure of selection:

(1) **Value & Distribution.** In his current [REDACTED] ^{few (B)} [REDACTED] has ten officers ranked above him and three below, placing him in the bottom of the pack. His overall Value and Distribution Marks are mid-pack with 45 officers ranked above him and 49 below him.

