



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 2790-99

4 June 1999

1STLT [REDACTED] SMCR
[REDACTED]
[REDACTED]

Dear Lieutenant [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 removed your contested fitness report for 1 July to 31 December 1997.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 June 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 26 April 1999 with enclosure, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 23 April 1999, 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 advisory opinion from MMOA-4 in finding that your failure by the Fiscal Year (FY) 1999 Captain Selection Board should stand. They found the advisory opinion equally applicable to your failure by the FY 2000 Captain Selection Board. Since the Board found insufficient basis to remove your failures of selection for promotion, they had not grounds to set aside action to effect your involuntary release from active duty. In view of the above, 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. 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

2790-99



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

IN REPLY REFER TO:
1610
MMER
26 Apr 99

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

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

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 22 Apr 99
(2) CMC Advisory Opinion 1600 MMOA-4 OF 23 Apr 99

1. As evidenced by enclosure (1), PERB removed from First Lieutenant [REDACTED] official military record, the fitness report for the period 970701 to 971231 (TR).
2. We defer to BCNR on the issue of First Lieutenant [REDACTED]'s request for the removal of his failure of selection to the grade of Captain. Enclosure (2) is furnished to assist in resolving that matter.



Head, Performance Evaluation
Review Branch
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps

1610
MMER/PERB
APR 22 1999

From: Commandant of the Marine Corps
To: First [REDACTED] USMC
[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>
6 Jan 98	[REDACTED] k	970701 to 971231 (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]
By direction



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

2790-99

IN REPLY REFER TO:

1610
MMAA-4
23 Apr 99

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

Subj: BCNR PETITION FOR FIRST LIEUTENANT [REDACTED]
[REDACTED] 2 USMCR

Ref: (a) MMR Request for Advisory Opinion in the case of First
Lieutenant [REDACTED] MCR
of 22 Apr 99

1. Recommend disapproval of First Lieutenant [REDACTED]'s request
for removal of his failure of selection.

2. Per the reference, we reviewed First Lieutenant [REDACTED]
record and petition. He failed selection on the FY99 USMC
Captain Selection Board. Subsequently, he successfully
petitioned the Performance Evaluation Review Board (PERB) to
remove the Transfer fitness report of 970701 to 971231 from the
record. First Lieutenant [REDACTED] requests removal of his failure
of selection.

3. In our opinion, the petitioned report *does* present
significant competitive concern to the record. However, the
record contains other areas of serious competitive concern:

a. **Value & Distribution.** First Lieutenant [REDACTED] has four
officers ranked above him and none below.

b. **Section B Marks.** First Lieutenant [REDACTED]'s record
contains less competitive Section B marks in Administrative
Duties, Handling Officers, Handling Enlisted, Tactical Handling
of Troops, Attention to Duty, Cooperation, Judgment, Force,
Leadership, Loyalty, Personal Relations, Economy of Management,
and General Value to the Service.

c. **Annual Fitness Report of 960429 to 960731.** The
Reviewing Officer's comments indicate First Lieutenant [REDACTED]'s
performance was not up to standards:

(1) "At times too focused on fire support and artillery
issues and lets other responsibilities slip by."

(2) "Needs to concentrate on all tasks regardless of
interest level. However, I have noticed substantial
improvement."

Subj: BCNR PETITION FOR FIRST LIEUTENANT [REDACTED]
[REDACTED] USMCR

4. In summary, the petitioned report does present significant competitive concern to the record. However, First Lieutenant [REDACTED] record retains serious competitive concerns due to poor Value & Distribution, less competitive Section B marks, and the Reviewing Officer's comments on the Annual fitness report of 960429 to 960731. Therefore, we recommend disapproval of First Lieutenant [REDACTED]'s request for removal of his failure of selection.

5. Point of contact is Major [REDACTED]

[REDACTED]

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