



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 8240-98

19 May 1999

CAPT [REDACTED] SMC  
[REDACTED]  
[REDACTED]

Dear Captain [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 19 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 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 Performance Evaluation Review Board (PERB), dated 19 November 1998, and a memorandum for the record dated 10 May 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 report of the PERB. Accordingly, 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.

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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

8240-98

IN REPLY REFER TO:  
1610  
MMER/PERB  
NOV 19 1998

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] USMC

Ref: (a) Captain [REDACTED] DD Form 149 of 20 Aug 98  
(b) MCO P1610.7D w/Ch 1-2

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 13 November 1998 to consider Captain [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 961113 to 970531 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the report is both substantively inaccurate and unjust and is the result of a "deleterious relationship" fostered in the work environment by the Reporting Senior. To support his appeal, the petitioner furnishes several items of documentation, to include three advocacy letters.

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. When the petitioner acknowledged the adverse nature of the report, he appended a lengthy rebuttal surfacing those matters with which he took exception. In his extensive review comments, Lieutenant Colonel [REDACTED], as the Reviewing Officer and Squadron Commanding Officer, clearly states that he observed both the petitioner and the Reporting Senior on a daily basis. The contentions raised by the petitioner in his rebuttal, and fully answered by the Reviewing Officer in his adjudication include the petitioner's regular duties, mishandling of fitness reporting responsibilities, untimely preparation and submission of fitness reports, the TAD trip to Turkey, problems with a financial arrangement with a Captain [REDACTED], and his supposed personality conflict with Major [REDACTED] (the Reporting Senior). These same items have been raised in reference (a).

b. While all of the adversity cited in subparagraph 3a above is certainly germane, the major deficiency recorded in the fitness report involves the petitioner's abilities as a naval

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aviator - - deficiencies which the petitioner attempts to mitigate, but does not deny.

c. The three advocacy letters from Captain [REDACTED] and [REDACTED] and Staff Sergeant [REDACTED] are limited in addressing the scope and context of the challenged report. None of those statements convincingly support the existence of any inaccuracy or injustice.

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]'s official military record.

5. The case is forwarded for final 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

**MEMORANDUM FOR THE RECORD**

**BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)  
PERFORMANCE SECTION  
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WASHINGTON, DC 20370-5100  
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DATE: 10MAY99

DOCKET NO: 8240-98

PETITIONER (PET): CAPT [REDACTED], USMCR

PARTY CALLING: PET

TELEPHONE NUMBER: N/A

WHAT PARTY SAID: PET INFORMED ME THAT HE IS NOT CONTESTING HIS FAILURES OF SELECTION, ONLY THE ADVERSE FITREP FOR 13NOV96-31MAY97.

[REDACTED]  
B. [REDACTED]