



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

BJG  
Docket No: 6010-99  
7 October 1999

MAJ [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 the contested sentence from your fitness report for 1 November 1994 to 13 March 1995.

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 Performance Evaluation Review Board (PERB), dated 20 September 1999, a copy of which is attached. They also considered your rebuttal letter dated 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. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They noted you pointed out that the inspection where your squadron was rated "below average" occurred before the reporting period in question. Therefore, they were unable to find that your reporting senior based the two contested marks on the inspection result. 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

Enclosure



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

IN REPLY REFER TO:  
1610  
MMER/PERB  
SEP 20 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 MAJOR  
[REDACTED] 9, USMC

Ref: (a) Major [REDACTED] D Form 149 of 19 Jul 99  
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 14 September 1999 to consider [REDACTED] petition contained in reference (a). He initially requested the complete removal of his fitness report for the period 941101 to 950313 (TD). However, by amendment dated 7 September 1999, [REDACTED] modified his request by asking for the removal of specified verbiage from Section C and the elimination of the marks of "excellent" in Items 13c (administrative duties) and 14d (attention to duty). Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the challenged comments in Section C rendered the report "adverse", yet he was not provided an opportunity to acknowledge and respond. In addition, the petitioner believes that the two marks of "excellent" are traceable to the comments in Section C to which he objects.

3. In its proceedings, the PERB concluded that:

a. As contended, the Reporting Senior's reference to the "below average" during a Group Embarkation Inspection rendered the report adverse. As such, the petitioner should have been required to sign Item 24 of the report and offered an opportunity to append a statement in his own behalf. It is the Board's position that to effect such action at this late date would not constitute sufficient relief. Instead, they have directed removal of the challenged verbiage (to wit: "Although the Squadron received a Below Average during recent Group Embarkation Inspection, he was able to reorganize and prioritize his shop quickly to ensure that the re-inspection found no discrepancies.").

b. Notwithstanding the action identified in subparagraph 3a above, and the comments made by both the petitioner and Captain

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[REDACTED] SMC

[REDACTED] the Board cannot agree that the Reporting Senior's sole reason for assigning the two marks of "excellent" in Section B were directly attributable to the now-expunged comments. To do so would support an unsanctioned and undocumented speculation. In this regard, the Board observes that only Lieutenant Colonel [REDACTED] can explain his rationalization for marking the report as he did.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the now-modified fitness report should remain as configured. The limited corrective action delineated in subparagraph 3a is considered sufficient.

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