



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

HD:hd  
Docket No: 07995-98  
30 August 1999

LT [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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 August 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 advisory opinion furnished by the Navy Personnel Command dated 20 May 1999, a copy of which is attached, and your letter dated 29 July 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 advisory opinion.

The Board was unable to find that you were never advised of the desirability of attaining the electronic warfare combat coordinator qualification; that your assignment did not give you a fair chance to gain the experience needed to make you competitive; or that your reporting senior lacked enough opportunity to observe your performance to render an other than "not observed" fitness report, noting observation need not be direct. The supporting statements you provided did not persuade the Board that you warranted a more favorable fitness report than the report at issue. Since the Board found no defect in your performance record, they had no basis to remove your failure of selection by the Fiscal Year 99 Line Lieutenant Commander Selection Board.

In view of the above, 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. 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

7995-98



**DEPARTMENT OF THE NAVY**  
**NAVY PERSONNEL COMMAND**  
**5720 INTEGRITY DRIVE**  
**MILLINGTON TN 38055-0000**

1610  
PERS-311  
20 May 1999

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

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: LT [REDACTED] US [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of her fitness report for the period 13 June 1997 to 31 January 1998.

2. Based on our review of the material provided, we find the following:

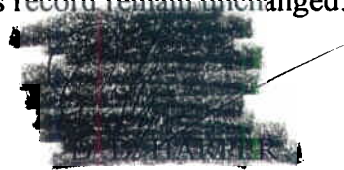
a. A review of the member's headquarters record revealed the report in question to be on file. The report was signed by the member acknowledging the contents of the report and her right to submit a statement in accordance with current regulations. The member indicated she did desire to submit a statement to the report. The member's statement and the reporting senior's reclama to her statement are properly reflected in her record.

b. The member alleges the report is not an accurate representation of her performance, lack of direct observation, and inconsistent squadron policies.

c. In reviewing petitions that question the exercise of the reporting senior's evaluation responsibilities, we must determine if the reporting senior abused his/her discretionary authority. For us to recommend relief, the petitioner has to show that either there is no rational support for the reporting senior's actions or that the reporting senior acted for an illegal or improper purpose. The petitioner must do more than just assert the improper exercise of discretion; he/she must provide evidence to support the claim. The fitness report itself represents the opinions of the reporting senior. Nothing in the petition shows that the reporting senior acted for illegal or improper purpose or that the report lacked rational support. The reporting senior stated in his reclama her fitness report was based purely on the member's performance for this reporting period.

d. A fitness report does not have to be consistent with previous or subsequent reports. Each fitness report represents the judgment of the reporting senior during a particular reporting period.

- e. Failure of selection is not sufficient reason to remove a fitness report.
  - f. The member does not prove the report to be unjust or in error.
3. We recommend the member's record remain unchanged.



Head, Performance  
Evaluation Branch