



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 6742-96
21 April 1999

MS [REDACTED]
[REDACTED]
[REDACTED]

De [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, United States Code, section 1552.

You requested removal of all references to "weight control program failure," removal of your enlisted performance evaluation of July 1995, and change of your reenlistment recommendation to show that you were recommended. Your July 1995 evaluation is not in your headquarters microfiche record, so your request for its removal was not considered.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 April 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 opinions furnished by the Navy Personnel Command dated 12 November 1998 and 26 January 1999, copies of which are attached. They also considered your counsel's rebuttal letter dated 16 March 1999 with enclosure.

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. The Board substantially concurred with the comments contained in the advisory opinion dated 26 January 1999 in finding that the references to your weight control program failures should stand. They were unable to find that you were not granted an opportunity to seek a medical waiver of Navy physical readiness standards. Further, they were unable to find that you were human immunodeficiency virus (HIV) positive before you were discharged from the Naval Reserve. Since they found no defect in your record, they had no basis to change your reenlistment recommendation. 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

Enclosures

Copy to:





DEPARTMENT OF THE NAVY

BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

IN REPLY REFER TO

1610
NPC-311
12 NOV 98

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

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

Subj: EX-SK2 [REDACTED] S, USN [REDACTED]

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of her performance report for the period of July 1995.

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

a. A review of the member's headquarters record does not reveal the report in question. The member does not provide a copy of the report with her petition.

3. In view of the above, we cannot render an opinion on the validity of the report at this time.

[REDACTED]

Head, Performance
Evaluation Branch



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

6110
Ser 601/0023
26 Jan 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (NPC-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO PETTY OFFICER
[REDACTED], USN, [REDACTED]

Ref: (a) NPC memo 5420 Pers-00ZCB/NPC-00ZCB of 10 Dec 98
(b) OPNAVINST 6110.1D

1. The following is provided in response to reference (a):

a. Reference (b) was the governing Health and Physical Readiness Instruction during SNM's enlistment. IAW reference (b), Navy required that all personnel meet body composition and physical readiness test standards.

b. Reference (b) provided provisions for medical waivers, on portions of the PRT, for valid medical reasons.

2. There is no evidence of a medical waiver. No changes are recommended.

3. My point of contact is HMCS(SW) [REDACTED] at (DSN) [REDACTED].

[REDACTED]

Captain, U. S. Navy
Director, Navy Drug and Alcohol,
Fitness, Education, and
Partnerships Division (NPC-60)