



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

SMC
Docket No: 05630-00
8 March 2001

CEC [REDACTED] SN
[REDACTED]
[REDACTED]

Dear Construction [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 8 March 2001. 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 30 October 2000, a copy of which is 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. They noted you provided nothing from the reporting senior to indicate he should have submitted a "not observed" report. Since they found insufficient basis to remove or modify the contested performance evaluation report, they had no grounds to recompute your performance mark average for the September 1999 cycle for advancement to petty officer third class. 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



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

1610
PERS-311
30 October 2000

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

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

Subj: CEC [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The members requests the removal or change her performance evaluation to NOB for the period 2 April 1999 to 15 July 1999.

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

a. A review of the member's headquarters record revealed the member was an E-3 at the time of the performance evaluation in question. Since E-4 and below performance evaluations are not placed in the member's headquarters record we base our reply on an uncertified copy of the evaluation provided with the member's petition. The member signed the report acknowledging the contents of the report and her right to submit a statement. The member did not desire to submit a statement. Per reference (a), Annex S, paragraph S-8, the member has two years from the ending date of the report to submit a statement.

b. The performance evaluation in question is a Periodic/Regular evaluation. The member states she was not allowed the 90 days grace period to exemplify the type of work she can do as an individual.

c. We cannot administratively change an observed report to a Not Observed Report (NOB). Per reference (a), Annex G, observed reports are desired if any fair and meaningful evaluation or recommendation can be made. The performance evaluation is procedurally correct.

d. The member does not prove the report to be unjust or in error.

(3) AC

3. We recommend the member's record remain unchanged.



Head, Performance
Evaluation Branch