



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

SMC
Docket No: 08041-00
29 June 2001

MSC [REDACTED] USN
[REDACTED]
[REDACTED]

De [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.

You requested that your fitness report for 16 September 1999 to 15 September 2000 be modified by removing or raising the mark of "3.0" in block 38 ("Leadership") and the mark of "Promotable" in block 42 ("Promotion Recommendation - Individual"), and removing the reporting senior's endorsement on your rebuttal dated 6 October 2000.

Your request to remove the endorsement on your rebuttal was not considered, as your record includes neither your rebuttal nor the endorsement.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 June 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. The Board also considered the advisory opinion from the Navy Personnel Command dated 27 February 2001, 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 probable material error or injustice concerning blocks 38 and 42 of the report in question. In this connection, the Board substantially concurred with the advisory opinion. They were unable to find you rated higher marks in either area; and they noted that in block 43 ("Promotion Recommendation - Summary") the reporting senior assigned the maximum number of "Early Promote" and "Must Promote" marks (four in each category) allowed by Bureau of Naval Personnel Instruction 1610.10, enclosure (2), Annex A, for a peer group of eight chief petty officers. 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

8041-00



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

1610
PERS-311
27 February 2001

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

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

Subj: MSC [REDACTED] USN [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests her fitness report for the period 16 September 1999 to 15 September 2000 be reevaluated and her performance traits were inaccurate and unjustified.

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. It is signed by the member acknowledging the contents of the report and her right to submit a statement. The member indicated she did desire to submit a statement, however, PERS-311 has not received the member's statement. The member provided a copy of her statement and reporting senior's endorsement with her petition.

b. The fitness report in question is a Periodic/Regular report. The member alleges the performance traits given were inaccurate and unjustified and further request her fitness report be reevaluated.

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 must show that either there is no rational support for the reporting senior's action 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. I do not believe [REDACTED] has done so.

d. The reporting senior is the judge of the performance of subordinates. While the member may disagree with the reporting senior's evaluation, it all comes down to the requirement that the reporting senior must make a judgment and rank the member's. In this case the reporting senior assigned the member a promotion recommendation of "Promotable." Such a ranking does not indicate a failing on the member's part, but rather the reporting senior gave greater value to the

(3) A2

contributions of the other member's in the summary group. In the reporting senior endorsement to the member's rebuttal, the reporting senior indicated he/she fully supports the report as written.

e. Counseling of a member takes many forms. Whether the member was given written, or oral counseling, or a Letter of Instruction (LOI) does not invalidate a fitness report.

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

g. The statement provided with the member's petition was considered unacceptable for filing. We are in the process of returning the member's statement for correction and resubmission per reference (a), Annex S, paragraph S-8.a and b. When the member's statement and reporting senior's endorsement is returned and found suitable for filing, we will place it in the member's digitized record.

h. 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