



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

HD:hd
Docket No: 00829-03
6 June 2003

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: ITC (S[REDACTED], USN, [REDACTED])
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 13 Jan 03 w/attachment
(2) PERS-311 memo dtd 30 Apr 03
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the fitness report for 16 September 2001 to 16 August 2002. A copy of this report is at Tab A.

2. The Board, consisting of Messrs. Caron and Lippolis and Ms. Davies, reviewed Petitioner's allegations of error and injustice on 5 June 2003, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the Navy Personnel Command office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that his request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing therefrom the following fitness report and related material:

Date of Report	Reporting Senior	Period of Report From	Report To
02Aug15	CAP [REDACTED], USN	01Sep16	02Aug16

b. That there be inserted in Petitioner's naval record a memorandum in place of the removed report, containing appropriate identifying data concerning the report; that such memorandum state that the report has been removed by order of the Secretary of the Navy in accordance with the provisions of federal law and may not be made available to selection boards and other reviewing authorities; and that such boards may not conjecture or draw any inference as to the nature of the report.

c. That appropriate corrections be made to the magnetic tape or microfilm maintained by the Navy Personnel Command.

d. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

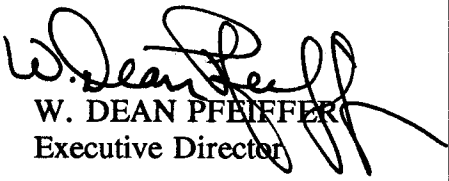
e. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder

Jonathan S. Ruskin
JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director



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

1610
PERS-311
30 April 2003

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

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

Subj: [REDACTED] USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 16 September 2001 to 16 August 2002.

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 not signed by the member, however, block-46 is annotated with "CERTIFIED COPY PROVIDED". Per reference (a), Annex S, paragraph S-8, the member may submit a statement within two years of the ending date of the report.

b. The report in question is a Detachment of Reporting Senior/Regular report. The member alleges the report is adverse and was not afforded the opportunity to submit a statement.

c. The fitness report for the period in question was filed in error. Per reference (a), Annex S, the report is considered adverse due to the recommendation contained in block-40 and the comments contained in block-41. There is no documentation the reporting senior informed the member the report was adverse and required his signature vice "CERTIFIED COPY PROVIDED".

3. While we are always reluctant to recommend removal of a fitness report, we recommend relief because the report contains adverse matter and was filed improperly.

[REDACTED]

Performance
Evaluation Branch