



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

HD:hd  
Docket No. 02330-07  
9 February 2008

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

REVIEW OF NAVAL RECORD

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

- Encl:
- (1) DD Form 149 dtd 9 Mar 07 w/attachments
  - (2) PERS-311 memo dtd 21 Jun 07  
and e-mail dtd 28 Jan 08
  - (3) PERS-811E9 memo dtd 10 Aug 07
  - (4) Subject's e-mails dtd 22 and 23 Jan  
and 5 Feb 08
  - (5) 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 modifying the enlisted performance evaluation reports for 15 December 2000 to 15 November 2001, 16 November 2001 to 11 October 2002, 16 November 2002 to 15 November 03 (extended to 6 December 2003), 6 December 2003 to 15 November 2004 and 16 November 2004 to 15 November 2005 (copies at Tabs A through E, respectively). She requested that the weight/body fat entry in block 20 ("Physical Readiness") of all five reports be changed from "NS" (not within standards) to "MW" (medically waived). This correction has been effected by the Navy Personnel Command (NPC). She further requested the following additional modifications:

- (1) 15 December 2000 to 15 November 2001

Block 36 ("Military Bearing/Character"): Raise from "2.0" (second lowest of five possible marks) to "3.0" (third lowest).

Block 43 ("Comments on Performance"): Remove "- Member failed most recent PFA [physical fitness assessment], but is making progress toward meeting standards."

(2) 16 November 2001 to 11 October 2002

Block 36: Raise from "2.0" to "3.0."

Block 43: Remove "- Failed most recent PRT [physical readiness test]. However, with considerable weight loss, she is progressing towards standards."

(3) 16 November 2002 to 15 November 2003 (extended to 6 December 2003)

Block 43: Remove "- Failed Fall 2003 PRT, not within BCA [body composition assessment] standards."

Block 45 ("Promotion Recommendation - Individual"): Raise from "Significant Problems" (lowest of five possible marks) to "Promotable" (third best) or "Must Promote" (second best). This report already reflects a mark of "Promotable."

Block 47 ("Retention"): Change from "Not Recommended" to "Recommended." This report already reflects a mark of "Recommended."

(4) 6 December 2003 to 15 November 2004

Block 36: Raise from "1.0" (lowest) to "3.0."

Block 43: Remove "\*36 - Member failed 7th consecutive PFA in Fall 04 by not meeting body fat standards. Member remains assigned to command-directed FEP [fitness enhancement program]. Recommendations for advancement and retention are rescinded."

Block 45: Raise from "Significant Problems" to "Promotable" or "Must Promote."

Block 47: Change from "Not Recommended" to "Recommended."

(5) 16 November 2004 to 15 November 2005

Block 36: Raise from "1.0" to "3.0."

Block 43: Remove "- Member passed PRT but failed to meet body fat standards during Spring and Fall 2005

PFAs. Adverse recommendations for retention and advancement remain in place."

Block 45: Raise from "Significant Problems" to "Promotable" or "Must Promote."

Block 47: Change from "Not Recommended" to "Recommended."

Finally, Petitioner requested that her performance mark average (PMA) be adjusted accordingly for the January 2007 pay grade E-7 advancement examination cycle (194), to establish her eligibility for selection board consideration.

2. The Board, consisting of Messrs. Dunn, Lippolis and Lucas, reviewed Petitioner's allegations of error and injustice on 7 February 2008, 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. OPNAV N151, the Office of the Chief of Naval Operations office with cognizance over the Physical Readiness Information Management System (PRIMS), advised that Petitioner's PRIMS data had been corrected to show medical waiver, vice failure, of the BCA's for Spring 2001, Fall 2001, Spring 2002, Fall 2002, Spring 2003, Fall 2003, Spring 2004, Fall 2004, Spring 2005 and Fall 2005.

c. In correspondence attached as enclosure (2), PERS-311, the NPC office having cognizance over performance evaluations, commented to the effect that block 43 of all the reports in question should be corrected as Petitioner requested. Concerning the requested change to block 36 of the reports for 15 December 2000 to 15 November 2001 and 16 November 2001 to 11 October 2002, PERS-311 recommended that the Board direct the reporting senior, who has retired from the U. S. Navy, to reconsider and correct the mark via a letter-supplement or

revised report. Concerning the reports for 6 December 2003 to 15 November 2004 and 16 November 2004 to 15 November 2005, PERS-311 initially recommended that the Board direct the reporting senior to reconsider the marks assigned in blocks 36 and 45, but after having failed in an effort to contact him, recommended that these reports be removed.

d. In correspondence attached as enclosure (3), PERS-811E9, the NPC office with cognizance over enlisted advancements, commented to the effect that changing the contested block 45 marks of "Significant Problems" to "Promotable" would have made Petitioner eligible for the Fiscal Year (FY) 08 Chief Petty Officer Selection Board, and they recommended that she submit a request to NPC for a special selection board. PERS-811E9 did not address whether removing those marks, rather than changing them, would have made her selection board eligible.

e. In enclosure (4), Petitioner provided a telephone number for the reporting senior who submitted the reports for 6 December 2003 to 15 November 2004 and 16 November 2004 to 15 November 2005, she verified she did not want these reports removed, and she indicated she wanted her case to go before the Board.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of paragraph 3.b above, the Board finds an injustice warranting full relief. Specifically, the Board finds the disputed block 43 comments should be removed from all five reports, that the contested block 36 marks should be raised to "3.0," that the contested block 45 marks should be raised to "Must Promote," and that the disputed block 47 marks should be changed to "Recommended."

Concerning block 43, the Board substantially concurs with enclosure (2). With regard to blocks 36, 45 and 47, in the absence of input from the reporting seniors concerned, the Board finds the block 36 marks of "3.0," block 45 marks of "Must Promote" and block 47 marks of "Recommended" are consistent with the remainder of the block 43 narratives of the reports and the rest of Petitioner's performance record.

Petitioner may submit to NPC a request for a special selection board for the FY 08 Chief Petty Officer Selection Board on the basis of her PMA, as adjusted to reflect the Board's action raising the block 45 marks in the reports for 6 December 2003 to

15 November 2004 and 16 November 2004 to 15 November 2005 from "Significant Problems" to "Must Promote."

In view of the above, the Board directs the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying as follows her enlisted performance evaluation record:

(1) Report for 15 December 2000 to 15 November 2001, dated 26 November 2001 and signed by Captain R. M. Stuart, II, USN:

- (a) Block 36: Raise from "2.0" to "3.0."
- (b) Block 40 ("Individual Trait Average"): Raise accordingly from "3.57" to "3.71."
- (c) Block 43: Remove "- Member failed most recent PFA, but is making progress toward meeting standards."

(2) Report for 16 November 2001 to 11 October 2002, dated 7 October 2002 and signed by Captain R. M. Stuart, II, USN:

- (a) Block 36: Raise from "2.0" to "3.0."
- (b) Block 40: Raise accordingly from "4.00" to "4.14."
- (c) Block 43: Remove "- Failed most recent PRT. However with considerable weight loss, she is progressing towards standards."

(3) Report for 16 November 2002 to 15 November 2003 (extended to 6 December 2003), dated 17 November 2003 and signed by Commander A. F. Kukulies, USN:

- (a) Block 43: Remove "- Failed Fall 2003 PRT, not within BCA standards."

(4) Report for 6 December 2003 to 15 November 2004, dated 17 November 2004 and signed by Captain S. O. Carder, USN:

- (a) Block 36: Raise from "1.0" to "3.0."
  - (b) Block 40: Raise accordingly from "3.57" to "3.86."
  - (c) Block 43: Remove "\*36 - Member failed 7th consecutive PFA in Fall 04 by not meeting body fat standards. Member remains assigned to command-directed FEP. Recommendations for advancement and retention are rescinded."
  - (d) Block 45: Change from "Significant Problems" to "Must Promote."
  - (e) Block 46: ("Promotion Recommendation - Summary"): Under "Significant Problems" change from "3" to "2," and under "Must Promote" change from "8" to "9."
  - (f) Block 47: Change from "Not Recommended" to "Recommended."
- (5) Report for 16 November 2004 to 15 November 2005, dated 16 November 2005 and signed by Captain S. O. Carder, USN:

- (a) Block 36: Raise from "1.0" to "3.0."
- (b) Block 40: Raise accordingly from "3.43" to "3.71."
- (c) Block 43: Remove "- Member passed PRT but failed to meet body fat standards during Spring and Fall 2005 PFAs. Adverse recommendations for retention and advancement remain in place."
- (d) Block 45: Change from "Significant Problems" to "Must Promote."
- (e) Block 46: Under "Significant Problems" change from "2" to "1," and under "Must Promote" change from "8" to "9."
- (f) Block 47: Change from "Not Recommended" to "Recommended."

b. That appropriate corrections be made to the magnetic tape or microfilm maintained by NPC.

c. That Petitioner's record be corrected further by removing any service record page 13 ("Administrative Remarks") or other entry dated on or about 15 November 2004 or 15 November 2005 reflecting the withdrawal of her recommendation for advancement or a recommendation against her retention.

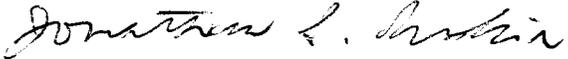
d. That Petitioner's record be corrected further by removing any service record page 13 or other entry reflecting her failures of BCA's/PFA's for Spring 2001, Fall 2001, Spring 2002, Fall 2002, Spring 2003, Fall 2003, Spring 2004, Fall 2004, Spring 2005 and Fall 2005.

e. 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.

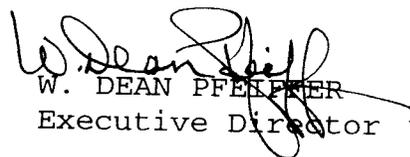
f. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. 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  
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