



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

HD:hd
Docket No. 03330-07
27 January 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 27 Mar 07 w/attachments
(2) OPNAV N135 memo dtd 14 Jun 07 w/enclosures
(3) PERS-311 memo dtd 25 Jun 07
(4) PERS-311 e-mail dtd 22 Jan 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 taking unspecified corrective action regarding the enlisted performance evaluation report for 16 November 2005 to 15 November 2006, a copy of which is at Tab A. He also impliedly requested removing any service record page 13 ("Administrative Remarks") entries dated on or about 15 November 2006 concerning the withdrawal of his recommendation for advancement or his having failed the physical fitness assessment (PFA) a third time in the previous four years.

2. The Board, consisting of Mses. LeBlanc and Epstein and Mr. Washington, reviewed Petitioner's allegations of error and injustice on 25 January 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. The aspects of the contested performance evaluation report to which Petitioner objects are the block 36 ("Military Bearing/Character") mark of "1.0" (lowest of five possible marks), the block 43 ("Comments on Performance") comment "*36 Failed Spring 2006 PFA (third in a four-year period) due to BCA [body composition assessment]," the block 45 ("Promotion Recommendation-Individual") mark of "Significant Problems" (lowest of five possible marks) and the block 47 ("Retention") mark of "not recommended."

c. In correspondence attached as enclosure (2), OPNAV (N135), the Office of the Chief of Naval Operations office with cognizance over the Physical Readiness Information Management System (PRIMS), commented to the effect that the PRIMS shows Petitioner actually had only two PFA failures in the last four years when the contested performance evaluation report was submitted. Accordingly, that office recommended modifying the report by removing the statement regarding three PFA failures.

d. In correspondence attached as enclosure (3), PERS-311, the Navy Personnel Command office with cognizance over performance evaluations, commented to the effect that block 43 of the contested report should be modified to state Petitioner had only two PFA failures in the last four years. PERS-311 further recommended that the reporting senior reconsider the marks in blocks 36 and 45 and correct them via a letter-supplement or revised report.

e. In correspondence at enclosure (4), PERS-311 advised they had been unable to contact the reporting senior, so they recommended removing the contested report.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (4), the Board finds the existence of an error and injustice warranting the following corrective action:

RECOMMENDATION:

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

Date of Report	Reporting Senior	Period of Report	
		From	To
12Jan07		16Nov05	15Nov06

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 Commsnd.

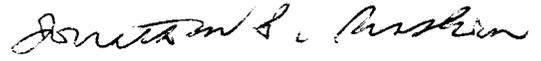
d. That Petitioner's record be corrected further by removing any service record page 13 ("Administrative Remarks") entries dated on or about 15 November 2006 concerning the withdrawal of his recommendation for advancement or his having failed the PFA a third time in the previous four years.

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.

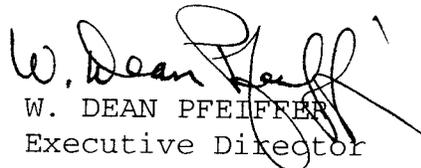
f. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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