



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 42-08

25 November 2008

[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 25 November 2008. 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 advisory opinion furnished by the Navy Personnel Command, copies of which are enclosed.

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.

Accordingly, 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

Enclosures



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

1610  
PERS-311  
6 June 2008

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

Via: PERS/BCNR Coordinator (PERS-31C)

Subj: [REDACTED]

Ref: (a) BUPERSINST 1610.10A (EVALMAN)

Encl: (1) BCNR File 00042-08 w/Service record

1. Enclosure (1) is returned. The member requests the revision of her performance evaluation report, covering the period of 16 March 2006 to 15 March 2007. Additionally, the member requests the Body Composition Assessment (BCA) be changed.

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 was signed by the member acknowledging the contents of the report and her right to submit a statement. The member indicated on the report that she intend to make a statement. The member's statement and the reporting senior's endorsement are not present in the member's file. Per reference (a) member has 2 years to submit a statement.

b. The performance evaluation report in question is an adverse, Periodic/Regular report. The member requests the comments pertaining to her Non-Judicial Punishment be removed as she alleges there was no time afforded to appeal the judgment. Additionally, the member requests that the Physical Readiness information be amended to medically waive as she was not released for duty by a surgeon.

c. The evaluation report is a valid report. The member received 1.0 performance trait mark in Military Bearing/Character and Leadership and in accordance with reference (a), the only promotion recommendation the member was eligible to receive was "Significant Problems". The member also has a NAVPERS 1070/613 entry in her file dated and signed by the member on 27 November 2006, stating she had failed three (3) Physical Fitness Assessments in a four (4) year period, per OPNAVINST 6110.1H the reporting senior was required to make her a significant problem on the performance evaluation report.

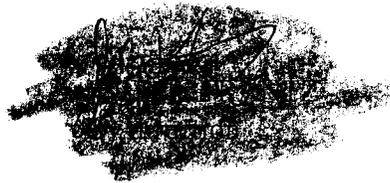
d. Per reference (a) Chapter 13, page 13-7, subparagraph 13-9 (b) -- Commenting on Judicial or Non-Judicial Punishment states "Non-Judicial Punishment proceedings are concluded when

Subj: [REDACTED]

they are final on appeal, or when it has been determined that the member has waived the right of appeal (normally 5 days after imposition of punishment)". Enclosure (1) documents the punishment was imposed on 8 December 2006 and the member's bust was suspended for a six (6) month period. The member acknowledged that The performance evaluation report was accurately prepared and submitted by the reporting senior in accordance with reference (a).

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

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



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12 JUN 08

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL  
RECORDS (PERS-31C)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN THE CASE OF  


Ref: (a) BCNR Case File 00042-08  
(b) OPNAVINST 6110.1H

Encl: (1) PRIMS Record (NAVPERSCOM Official data)

1. Sailor petitioned the Board for Correction of Naval Records (BCNR) in accordance with reference (a), to correct errors and/or remove injustices in the Sailor's Evaluation for the period of 06 MAR 16 to 07 MAR 15.

2. Sailor's request for removal of Physical Readiness Information Management System (PRIMS) data based on the Evaluation in question is not supported by documentation provided in Ref (a). Package did not include any medical documentation proving a medical waiver existed.

3. Recommendation. Based on the Physical Readiness Program policy and evidence contained in this file, there is not substantiating evidence that Sailor's PRIMS record is incorrect. Recommend no correction be made to the requested PRIMS records or evaluation.

4. This is an advisory memorandum for the use of the Board for Correction of Naval Records only. Please contact ETCM(SS) Rob Danielson at Comm: 901-874-4310/DSN: 882 for further information.



JUN 28 2008