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

HD:hd  
Docket No. 07328-08  
7 October 2008

[REDACTED]

[REDACTED]

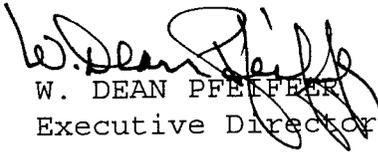
This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 October 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 the advisory opinion furnished by the Navy Personnel Command dated 14 August 2008, a copy of which is attached. The Board also considered your declarations of 18 August and 15 September 2008 with attachments.

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, particularly noting the reporting senior's e-mail of 13 August 2008, exhibit K to your declaration of 15 September 2008. 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

Enclosure



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

1610  
PERS-311  
14 August 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 07328-08 w/Service record

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period of 26 October 2007 to 30 April 2008. Additionally, the member requests he be provided with two (2) fitness reports for the same period.

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. The member acknowledging the contents of the report and his right to submit a statement and signed the fitness report. The member indicated on the report that he intended to make a statement. The member's statement and endorsement are present in the file. The member was unable to obtain the reporting senior's endorsement after reasonable effort.

b. The report in question is a non-adverse Periodic/Regular report ending 30 April 2008. The member alleges the fitness report includes a period that should have been reported on by another reporting senior. The member alleges there was an agreement for another department to provide him with a fitness report. Additionally, the member requests two separate fitness reports for the period in question to be provided to him.

c. The report is a valid report. There is nothing within the member's petition that he received transfer orders or a directive to a different command. Had the member received orders he should have received a Detachment of Individual Report. If the member was attached by directive to the follow on unit they would have been authorized to submit a Concurrent Report on the member if not in same common chain of command.

d. Reference (a), Chapter 10, page 10-3, and subparagraph 10-5 (a) – Periodic Reports, requires a member be provided a fitness report if member had been on board 3 months or more. The fitness report in question covers over a six (6) month period. Reference (a) Chapter 3, page 3-4, subparagraph 3-7 (a) allows the new reporting senior to cover period and include in the next regular report for interim reporting seniors. Reference (a) has no other stipulation on new

reporting senior's covering periods that they were not on board to observe the member. The member was not required to receive [REDACTED] was the interim reporting senior and the report of record signed by SES-2 Gallo shows his agreement to cover the full period as the interim period was only one (1) month.

e. The member provided an email within his petition that requests and answers to the question of his fitness report but not a reply on a decision or an agreement. Reference (a) has no stipulation on Pre-arranged Regular Fitness Reports only Pre-arranged Concurrent Regular Reports. The member does not prove the report unjust.

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

  
JOHN I. FRANTZ  
By direction