



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

HD:hd  
Docket No. 01587-09  
11 June 2009

[REDACTED]

[REDACTED]

This is in reference to your letter dated 24 February 2009 with references (a)-(k), seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. Your previous case, docket number 11271-07, was denied on 15 May 2008.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 11 June 2009. 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 letter, together with all material submitted in support thereof, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 1 April 2009, a copy of which is attached. The Board also considered your fax letter of 12 May 2009.

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. The Board was unable to find your signature on the service record page 13 entry was a forgery. In view of the above, the

Board again voted to deny relief. 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

1430  
Ser 811/176  
1 Apr 09

MEMORANDUM FOR CHAIRMAN, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: PERS-31C

Ref: (a) SNM's DD Form 149 dtd 19 Dec 07  
(b) BUPERSINST 1430.16E  
(c) COMNAVPERSCOM ltr 1430 Ser 811/204 of 28 Feb 08

Encl: (1) BCNR File

1. Per references (a) and (b), recommend disapproval to the petitioner's request. This recommendation remains the same as reference (c).
2. The petitioner is requesting advancement to IT1 due to his command not following the withdrawal of advancement procedures of reference (a).
3. Member was reduced in rate to pay grade E4 (suspended for 6 months) at CO's Non-Judicial Punishment (NJP) on 12 Jun 2007, for violation of article 92 of the UCMJ (fraternization and viewing pornography on government computers). The petitioner's CO signed an administrative remarks form, NAVPERS 1070/613, withdrawing his advancement recommendation to IT1 on 13 Jun 2007, the day after of petitioner's NJP.
4. Although the member's CO signed the adverse evaluation on 1 Oct 2007 which the member signed on 3 Oct 2007, the administrative remarks was signed and the message released prior to the member's advancement to IT1 on 16 Jun 2007. Since the NJP was conducted four days prior to the effective date of his advancement to IT1, his advancement was automatically posted in the system until the required action could be taken to remove his advancement.
5. In view of the above, recommend the petitioner's record remains as is.
6. This is an advisory memorandum to reference (a) for use by the Board for Correction of Naval Records (BCNR) only. Enclosure (1) is returned.

  
C. E. AIMESTILLMAN  
Division Director  
Enlisted Career Progression

MAY - 1 2009