



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

HD:hd
Docket No: 00156-99
20 August 1999



Dear Lieute [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 12 August 1999. 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 Bureau of Naval Personnel dated 16 April 1999, a copy of which is attached. The Board also considered your letter dated 28 May 1999 with enclosures.

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

Enclosure



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

IN REPLY REFER TO
1611
Ser 834C/605
16 Apr 99

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

Via: Assistant for BCNR Matters, NPC-OOZCB

Subj: LTJG [REDACTED] SC, USNR, [REDACTED]

Ref: (a) BCNR memo 5420 Pers-00ZCB/NPC00ZCB of 29 Mar 99
(b) NAVSCSCOL, Athens ltr 1620 Ser 00/0326 of 29 May 98
(c) MILPERSMAN 1611-010
(d) Manual of the Judge Advocate General § 0114

Encl: (1) BCNR file 00156-99 w/service record

1. Reference (a) requested an advisory opinion in response to LTJG [REDACTED] request to remove reference (b) from his officer permanent personnel record due to a Board of Inquiry (BOI) finding on 21 Dec 98 of "no misconduct" in his case. Enclosure (1) is returned as a matter under the purview of BCNR.

2. [REDACTED] received reference (b) due to his Commanding Officer's finding that [REDACTED] violated articles 133 and 90 of the UCMJ by cheating on a homework assignment and failing to obey an order from a superior commissioned officer. Reference (b) was an appropriate measure based on the known facts and was issued in compliance with reference (c).

3. The BOI's determination that "no misconduct" occurred was an independent conclusion to answer the question of LTJG [REDACTED] suitability for continued service, and not a contradiction or nullification of the Commanding Officer's decision to issue reference (b). Additionally, per reference (d), unless withdrawn or set aside, punitive letters of reprimand and references to them will be made part of the officer's record.

4. Accordingly, do not concur with the removal of reference (b) from LTJG [REDACTED] officer permanent personnel record.

[REDACTED]

Commander, U.S. Navy
Director
Personnel Performance & Security
Division
Acting