



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

SMC
Docket No: 0894-99
26 August 1999

[REDACTED]

Dear Petty [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 26 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 Navy Personnel Command dated 21 May 1999, and a memorandum for the record dated 28 June and 7 July 1999, copies of which are attached.

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 advisory opinion.

The Board was unable to find the contested report should have been "not observed," noting the reporting senior's observation need not be direct. They found the reporting senior's not having mentioned you were a section leader, assuming that you did perform that duty, did not invalidate the report at issue. They were unable to find the report shows the wrong person as your rater, but they found an error in this regard would not invalidate the report; rather, it would support changing the name shown for your rater. Finally, the Board was unable to find you were not counseled. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided.

In view of the above, 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
21 May 99

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

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: HM1 [REDACTED] USNR, [REDACTED]

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of her evaluation for the period of 1 December 1995 to 18 May 1996.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the report in question to be on file. The member signed the report indicating she desired to submit a statement; however, a statement was not received by Pers-322 from the member. The member provides with her petition a copy of the statement. We are unable to accept the statement for file due to the command's endorsement being missing. The statement was returned to the member on 20 May 1999, via the command, requesting an endorsement.

b. The member alleges that the adverse evaluation in question was based on numerous misunderstandings and miscommunications at different levels within the command. The member feels that the adverse evaluation would not look favorable for future promotions or officer selections.

c. The report in question represents the judgement and appraisal responsibility of the reporting senior for a specific period of time. It is not required to be consistent with previous or subsequent reports, and is not routinely open to challenge.

d. [REDACTED] bases her request on the belief that the performance report in question would interfere with her opportunities for advancement. We do not support changes to the

Subj: HM [REDACTED] USNR, [REDACTED]

record to improve a member's opportunity for advancement or career enhancement.

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

3. We recommend retention of the report as written.

[REDACTED]

Head, Performance
Evaluation Branch

28 JUNE 99

MEMO FOR THE RECORD

TELEPHONED [REDACTED] NAVY INSPECTOR GENERAL [REDACTED] REQUESTING DOCUMENTATION/INFORMATION ON A HOTLINE COMPLAINT ICC [REDACTED]

[REDACTED] INFORMED ME THE IG HAD FINALIZED THE COMPLAINT, AND SHE WOULD FORWARD RESULTS.

[REDACTED]

7 JULY 1999 I RECEIVED THE HOTLINE COMPLETION REPORT. IT REVEALS THAT PET'S ALLEGATION THAT [REDACTED] ABUSED HIS TITLE BY SUBMITTING AN EVALUATION (1 DEC 95 TO 18 MAY 96) NOT WARRANTED BY HER PERFORMANCE WAS FOUND TO BE UNSUBSTANTIATED.

[REDACTED]