



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

BJG
Docket No: 1887-99
19 November 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: FC2(SW [REDACTED] USN [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 24 Feb 99 w/attachments
(2) PERS-311 memo dtd 30 Aug 99
(3) PERS-601 memo dtd 3 Nov 99
(4) Memo for record dtd 17 Nov 99
(5) Subject's naval record

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting his naval record be corrected by removing his service record page 13 ("Administrative Remarks") dated 18 December 1997, and modifying his performance evaluation report for 13 June 1997 to 15 March 1998, copies of which are in enclosure (1) at Tabs A and B, respectively. Regarding the evaluation, he specifically requested changing the physical readiness test (PRT) code in block 20, "physical readiness," from "F" (failed PRT) to "M" (PRT medically waived), so the entry will read "M/WS [within height/weight or body fat standards]." He also requested that his mark of "2.0" ("progressing"), the second lowest, in block 36, "military bearing/ character," be changed to "3.0" ("meets standards"), the third lowest. Finally, he requested that block 45, "promotion recommendation - individual," be changed from "promotable," the third best, to "must promote," the second best. Paragraph 3.e below reflects he later amended his requests, regarding the marks in blocks 36 and 45, from modification to removal, and requested filing a memorandum to explain their absence.

2. The Board, consisting of Mr. Flood and Mses. Hardbower and Moidel, reviewed Petitioner's allegations of error and injustice on 18 November 1999, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The only unfavorable matter in the performance evaluation in question is the contested PRT entry in block 20.

c. In correspondence attached as enclosure (2), the Navy Personnel Command (NPC) Performance Evaluation Branch (PERS-311) has commented to the effect that Petitioner's original request to modify his evaluation warranted partial approval. They recommended modifying blocks 20 and 36 as Petitioner originally requested, on the basis that he had provided documentation indicating he should have been medically waived from the PRT, but they concluded he had not provided sufficient justification for changing his promotion recommendation. They stated "The promotion recommendation is at the discretion of the reporting senior and is not required to be consistent with the trait average or other recommendations."

d. In correspondence attached as enclosure (3), the NPC Navy Drug and Alcohol, Fitness, Education, and Partnerships Division (PERS-601) has commented to the effect that Petitioner's request to remove his page 13, which documents his failure of the PRT, has merit and warrants favorable action.

e. The memorandum for the record at enclosure (4) shows Petitioner amended his request regarding the marks in blocks 36 and 45 of his evaluation, from modification to removal. He also clarified that he wanted a memorandum placed in his record to account for the absence of the marks.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting full approval of Petitioner's request, as amended.

The Board concurs with PERS-311 in finding that block 20 of his performance evaluation should be modified to show he was medically waived from the PRT. They further agree that corrective action regarding block 36 is justified, since the mark in this block would have been affected by the PRT failure. Since Petitioner now requests removal of the mark, rather than modification, and the evidence does not establish what mark the reporting senior would have assigned if Petitioner had been waived from the PRT, the Board concludes that removing the mark is the proper remedy.

Contrary to the PERS-311 opinion, the Board finds removal of the block 45 promotion recommendation is warranted as well. They consider it apparent that the PRT failure influenced the promotion recommendation, particularly noting that the evaluation reflects no other unfavorable information. As Petitioner now requests removal of the recommendation, rather than modification, and the evidence does not show what the recommendation would have been if he had been waived from the PRT, the Board finds that removing the recommendation is appropriate.

The Board agrees with Petitioner that if the marks in blocks 36 and 45 are removed, a memorandum should be placed in his record to account for their absence.

The Board concurs with PERS-601 in concluding that the page 13 should be removed.

In view of the above, the Board recommends the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying his enlisted performance evaluation report for 13 June 1997 to 15 March 1998, signed by Lieutenant Commander S. M. Sundt, USN, and dated 9 April 1998, as follows:

- (1) Block 20 ("physical readiness"): Change the PRT code from "F" to "M," so the entry as corrected will read "M/WS."
- (2) Block 36 ("military bearing/character"): Delete "X" from "2.0" column, leaving no mark in this block.
- (3) Block 45 ("promotion recommendation - individual"): Delete "X" from "promotable" column, leaving no mark in this block.

b. That there be inserted in Petitioner's naval record a memorandum, containing appropriate identifying data; that such memorandum state that the marks in blocks 36 and 45 of Petitioner's enlisted performance evaluation report for 13 June 1997 to 15 March 1998 have been removed by order of the Secretary of the Navy in accordance with the provisions of federal law and may not be made available to selection boards and other reviewing authorities; and that such boards may not conjecture or draw any inference as to the nature of the removed marks.

c. That appropriate correction be made to the magnetic tape or microfilm maintained by the Navy Personnel Command.

d. That Petitioner's service record page 13 ("Administrative Remarks") dated 18 December 1997 be removed.

e. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

f. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder

Jonathan S. Ruskin
JONATHAN S. RUSKIN
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.

W. Dean Pfeiffer
W. DEAN PFEIFFER

Reviewed and approved:

JAN 11 2000

C. L. Tompkins

Charles L. Tompkins
Deputy Assistant Secretary of the Navy
(Personnel Programs)



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

1887-99

1610
PERS-311
30 AUG 99

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

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

Subj: FC2 [REDACTED] USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests modification to his performance report for the period 13 June 1997 to 15 March 1998.

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 his desire not to submit a statement. Per reference (a), the member has two years from the ending date of the report to submit a statement if desired. A statement has not been received from the member.

b. A further review of the member's digitized record revealed a letter-supplement for the report in question to be on file. Per reference (a), Annex P, paragraph P-4, the original reporting senior may submit supplementary material within two years after the ending date of the report. The original reporting senior, LCDR [REDACTED] did not sign the letter-supplement on file; therefore, the letter-supplement is invalid. We have administratively removed the letter-supplement from the member's digitized record.

c. The member states that the report for the period in question was submitted in error due to not being medically capable of taking the PRT. The member alleges that it took a year to be seen by an orthopedic surgeon. The member provides with his petition a Standard Form 600 from [REDACTED], MC, USA, which supports his allegation. The member feels that block 20, "Physical Readiness", should be changed to read "M/WS" vice "F/WS"; block 36, "Military Bearing/Character" should be changed

Subj: FC [REDACTED], USM [REDACTED]

to read "3.0" vice "2.0", and block 45, "Individual Promotion Recommendation" should be changed to read "Must Promote" vice "Promotable".

d. We feel that the member does provide justification for changing blocks 20 and 36, but does not provide sufficient justification for changing his promotion recommendation. The promotion recommendation is at the discretion of the reporting senior and is not required to be consistent with the trait average or other recommendations.

3. Based on the above findings, we recommend the following:

(1) Change block 20, "Physical Readiness" to read "M/WS" vice "F/WS".

(2) Change block 36, "Military Bearing/Character" to read "3.0" vice "2.0".

[REDACTED]

Head, Performance Evaluation Branch

1887-99



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

6110
PERS-601
3 Nov 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
PETTY OFFICER [REDACTED]

Ref: (a) BCNR File 01887-99 w/Service record

1. Based on our review of reference (a), removal of members page 13 is justified. Petty Officer [REDACTED] should have been medically waived during the PRT conducted 2/97.
2. Recommend removal of page 13 from Petty Officer [REDACTED] service record.
3. PERS-601's point of contact is [REDACTED] who can be reached at [REDACTED] or (C) [REDACTED]

[REDACTED]

Captain, U.S. Navy
Director, Navy Drug & Alcohol,
Fitness, Education, and
Partnerships Division (PERS-60)

MEMORANDUM FOR THE RECORD
DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX, SUITE 2432
WASHINGTON, DC 20370-5100
COMMERCIAL: [REDACTED] OR DSN [REDACTED]
FAX: (703) 614-9842 OR DSN: 224-9857

DATE: 17NOV99
CASE DOCKET NO: [REDACTED]
PETITIONER (PET): FC2 ([REDACTED]), USN
PARTY CALLED: PET
TELEPHONE NO: [REDACTED]

WHAT I SAID: I ASKED WHETHER OR NOT PET WANTED THE MARKS AND
PEER COMPARISON REMOVED IN HIS CONTESTED EVAL VICE IMPROVING THE
MARKS AND PEER COMPARISON. I ALSO ASKED HIM IF HE WANTED A MEMO
FILED IN HIS RECORD EXPLAINING THE MODIFICATIONS TO HIS EVAL
WHAT PARTY SAID: PET INFORMED ME THAT HE DID WANT THE MARKS AND
PER COMPARISON REMOVED AND A MEMO FILED IN HIS RECORD.

[REDACTED]