



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

HD:hd
Docket No: 04989-01
19 April 2002

E [REDACTED] HONR
[REDACTED]
[REDACTED]

Dear [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 18 April 2002. 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 30 October 2001, a copy of which is 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 comments contained in the advisory opinion, except the recommendation, in paragraph 3, to amend the contested evaluation to show it was a "detachment of individual" evaluation, rather than "special." They found this would not be a material correction in an adverse evaluation.

The Board was unable to find you were denied access to all documentation on which the contested evaluation was based. They did not find the reporting senior's comments to be contradictory. They did not consider the absence of entries from blocks 42 ("Signature of Rater") and 49 ("Signature of Senior Rater") to be a material error warranting removal of the evaluation at issue. In this regard, they noted that neither of your supervisors who provided supporting statements (enclosures (5) and (6) to your application) corroborated your assertion that none of your supervisors for the period concerned were contacted for input about your performance. They were unable to find your SEAL (sea-air-land) NEC (Navy enlisted classification) was not removed during the period in question, nor could they find you did not meet the requirements for removal. Finally, the Board observed that the evaluation in

question need not be consistent with past and later evaluations. As they found the contested evaluation should stand, they had no grounds to grant you authority to wear the Good Conduct Medal.

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

21989-01

1610
PERS-311
30 October 2001

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

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

Subj: ENS [REDACTED] USNR, [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his performance evaluation for the period 16 June 1999 to 30 November 1999.

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

a. A review of the member's headquarters record revealed the member was a PH-3 (E-4) at the time of the report. Petty Officer Third Class and below performance evaluations are not held in the member's headquarters record, only in the field service record. We base our opinion on an uncertified copy of the report provided with the member's petition.

b. The report in question is a Special/Regular report. The member alleges the report is inaccurate, unjust, and wrongly submitted.

c. The reporting senior is charged with commenting on the performance or characteristics of each member under his/her command and determines what material will be included in a performance evaluation. The contents and grades assigned on a report are at the discretion of the reporting senior. The report represents the judgment and appraisal authority of the reporting senior. In block-43 (Comments on Performance) the reporting senior clearly states his reason for writing the report as he did.

d. Although block-13 is marked Special for "Occasion for Report" the reporting senior indicated in block-43 "Comments on Performance", the report was prepared on the occasion of the member's transfer to Transient Personnel Unit (TPU) Norfolk. There should have been an "X" placed in block 11 to indicate Detachment of Individual.

e. Counseling of a member takes many forms. Whether or not the member was given oral or written counseling or issued a Letter of Instruction (LOI), does not invalidate a performance evaluation.

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

3. We recommend the member's record remain unchanged except to indicate Detachment of Individual vice a Special report.



Head, Performance
Evaluation Branch