



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

SMC  
Docket No: 05881-00  
31 August 2001

GMC EC [REDACTED] USN

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 30 August 2001. 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 opinions furnished by the Navy Personnel Command (NPC) dated 5 December 2000 and 29 May 2001, copies of which are attached, and your letters dated 5 March 2001, with enclosures, and 2 July 2001.

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 dated 5 December 2000.

You assert that from June to December 1998, your unit was constantly subjected to verbal and psychological abuse by your leading chief petty officer and officer in charge. You further assert that your efforts to work matters out with them were construed as negative behavior. However, the Board particularly noted that the reporting senior specifically stated you need to learn to accept negative feedback; that you defamed your senior enlisted personnel and officers, speaking poorly of your chain of command to other sailors in an unofficial capacity; and that you missed ship's movement. They were unable to find these assertions were incorrect. Concerning your objection that the negative endorsement of 23 April 1999 was placed in your record without your knowledge, the Board found that the only new adverse information was an allegation that you missed ship's movement. They were not persuaded by your unsupported statement, in your application, that "This

endorsement contained erroneous information." You may submit to NPC, via the reporting senior, a reply to the endorsement, including an explanation for not having submitted it within two years after the reporting period.

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

Enclosures



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

1610  
 PERS-311  
 5 December 2000

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

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

Subj: GMC(EOD/SW) [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 16 November 1997 to 15 November 1998 and all negative information and documents concerning the fitness report.

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

a. A review of the member's headquarters record revealed the report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member's statement and reporting senior's endorsement is properly reflected in the member's digitized record.

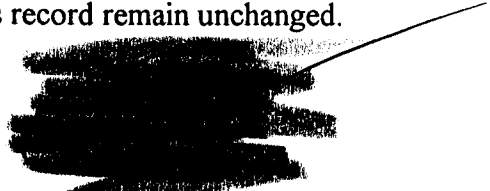
b. The fitness report in question is a Periodic/Regular report. The member alleges the fitness report was unjustified. In viewing petitions that question the exercise of the reporting senior's evaluation responsibilities, we must determine if the reporting senior abused his/her discretionary authority. For us to recommend relief, the petitioner has to show that either there is no rational support for the reporting senior's action or that the reporting senior acted for an illegal or improper purpose. The petitioner must do more than just assert the improper exercise of discretion; he/she must provide evidence to support the claim. I do not believe that Chief [REDACTED] can do so. The fitness report itself represents the opinions of the reporting senior. Nothing provided in the petition shows that Lieutenant [REDACTED] reporting senior, acted for illegal or improper purposes or that the report lacked rational support. The reporting senior clearly explains in the comment section of the fitness report, as well as his endorsement to the member's statement, his reason for writing the report as he did.

c. The reporting senior is charged with commenting on the performance or characteristics of all members under his/her command and determines what material will be included in a fitness report. The fact that the trait grades on a draft report may have been different from the final version does not invalidate a report.

d. Enhancement of career opportunities or that it may adversely affect a member's promotion opportunity is not sufficient reason to remove a report.

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

3. We recommend the member's record remain unchanged.



Head, Performance  
Evaluation Branch



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

1610  
PERS-00H/227  
29 May 01

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  
GMC [REDACTED], USN, [REDACTED]

Ref: (a) BCNR PERS-00ZCB memo of 4 APR 01  
(b) OPNAVINST 5354.1E Navy EO Manual

Encl: (1) BCNR File 05881-00

1. Reference (a) requested an advisory opinion in response to Chief [REDACTED] request to remove all negative information and documents pertaining to and including his evaluation dated 97Nov16-98Nov15. He also requested a copy of an investigation, conducted on his former Officer-in-Charge and Leading Chief Petty Officer.
2. Chief [REDACTED] alleges that his Officer-in-Charge wrote an unjust, negative evaluation and statements that are now a part of his official, permanent record. He claims that these statements contain false information and that his evaluation was not supported since he had previously received positive feedback in a mid-term counseling and several letters of appreciation. Performance Evaluation Branch (PERS-311), Navy Personnel Command, is addressing these concerns.
3. Regarding the Command Managed Equal Opportunity (CMEO) investigation, my office has received no Situation Reports (SITREPs), which are required upon initiation of an investigation into allegations of discrimination. COMNAVFORMAR letter to Chief [REDACTED] dated 23 June 2000, outlines the parameters of Freedom of Information Act as per Title 5, United States Code, Section 552a. In the same letter, Chief [REDACTED] was advised of his right to appeal his FOIA determination to Office of Judge Advocate General. If he has not yet done so, I recommend he pursue the appeal, requesting the sixty-day waiver.
4. Upon a thorough review of the case, I did not find any allegations of discrimination based on race, ethnicity, national

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

origin, sex, or religion raised by [REDACTED] Based on the information provided, there are no issues of equal opportunity in question; I am providing no recommendation for the disposition of this case.

[REDACTED]

Director, Navy Equal  
Opportunity Office  
(PERS-00H)