



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

BJG
Docket No: 6535-00
30 August 2001

ET [REDACTED] USN RET
[REDACTED]
[REDACTED]

Dear Petty Officer [REDACTED]

This is in reference to your letter dated 12 June 2000 with enclosures, seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested removal of the performance evaluation report for 3 September 1996 to 15 March 1997, and you impliedly requested retroactive advancement to electronics technician first class (ET1), pay grade E-6, from the March 1997 examination cycle. Your previous case, docket number 5948-98, was denied on 9 March 2000. Your case was reopened in light of the new evidence provided with your letter of 12 June 2000, as well as the undated letter on your behalf from your commanding officer, with enclosures.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, began reconsideration of your case on 26 July 2001, and concluded deliberations on 29 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 letter of 12 June 2000 with enclosures, your commanding officer's undated letter with enclosures, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command, dated 8 December 2000, and the reporting senior's letter of 11 June 2001, copies of which are attached. They also considered your undated reply, with enclosures, to the reporting senior's letter.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice. Notwithstanding the favorable advisory opinion, they found the letter from the reporting senior to be persuasive. They noted that your exemption from compliance with Navy physical readiness standards expired on 28 October 1996, before the body fat measurement of 2 December 1996 shown on page two of your Physical Readiness Test folder, cited by the

reporting senior. In view of the above, the Board again voted to deny relief. 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

0535-00

1610
PERS-311
8 December 2000

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

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

Subj: ET [REDACTED], USN [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual
(b) Our memo 1610 NPC-311 of 29 April 1999

Encl: (1) BCNR File

1. Enclosure (1) is returned. As you requested, we have reviewed Petty Officer [REDACTED] petition and reconsidered our decision in reference (b). We now recommend approval of Petty Officer [REDACTED] request to remove the performance evaluation for the period 3 September 1996 to 15 March 1997.
2. Based on the new material provided with the member's petition, we believe the performance evaluation for the period 3 September 1996 to 15 March 1997 should be removed from Petty Officer [REDACTED] record.
3. The member proves the report to be unjust or in error.
4. We recommend relief based on the new material now available.

[REDACTED]
Head, Performance
Evaluation Branch

11 June 2001

Jonathan Ruskin
Head, Performance Section
Board for Correction of Naval Records
2 Navy Annex
Washington DC 20370-5100

Dear Sir;

Subject: [REDACTED] performance evaluation for 3Sep96 to 15Mar97

1. In response to inquiries the following is submitted. [REDACTED] was not within standards when reporting to the Command however, measurement was postponed until she was beyond the mandatory 6 month period following the birth of her 3rd child. This measurement was not recorded in her folder but instead she was referred to the Medical Clinic at Portsmouth. Physicians Assistant [REDACTED] saw her and he evaluated her on 2 December 96. Comments from his evaluation are on page 2 of her PRT folder. He stated that she was Out Of Standards and she was subsequently placed on the CDPC program. She was unable to make any progress and was then placed in the Weight Control Program at ARC Norfolk.

Timeline:

- 3 April 95 Failed 1st PRT for exceeding body fat (Medical Eval assessed her as 'over fat')
- Sep 95 Member was pregnant during this PRT cycle
- 28 April 96 Third child was born
- 15 May 96 Exempt from PRT (within 6 months of child's birth)
- 2 Sep 96 Reported to SIMA Portsmouth
- 10 Sep 96 Exempt from PRT (within 6 months of child's birth)
- 2 Dec 96 Failed body fat measurement (Medical Eval assessed her as 'out of standards' in the obese block of the PRT folder)
Directed to enroll in the Command Directed Physical Conditioning Program
Measurement was taken 10-12 weeks prior to anticipated PRT
- Jan/Feb 97 No progress being made in CDPC Program. Failed Body fat limits.
- 10 Mar 97 Placed in obesity rehabilitation program at NAVSTA Norfolk
- 11 Mar 97 Participated in advancement exam
- 15 Mar 97 Evaluation with M/NS and marked with 1.0 in block 36. This was in compliance with Para 11.d. (2) of Enclosure 6 of OPNAVINST 6110.1E
"During the reporting period, members who have not demonstrated significant progress in CDPC shall receive a maximum grade of 1.0 in Military bearing and marked significant problems in block 45"

Therefore, the evaluation marks that I assigned were in compliance with the appropriate instructions at the

[REDACTED SIGNATURE]