



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

HD:hd
Docket No: 04555-02
7 November 2002

CD [REDACTED] HC USN
[REDACTED]
[REDACTED]

Dear Command [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 7 November 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 (NPC) dated 27 September 2002, a copy of which is attached. The Board also considered your letter dated 30 October 2002 with enclosure.

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. As the reporting senior did not forward the original version of your fitness report to NPC, he was not required to treat the contested report of record as supplemental. Since the message of 29 July 1996 (enclosure (6) to your application), reporting that an officer of your peer group had been selected for promotion, came out before the end of the reporting period, the reporting senior was correct to eliminate that officer from your peer group on the basis of the officer's change in status. 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

24355-02



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

1610
PERS-311
27 September 2002

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

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

Subj: CD [REDACTED], SN, [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 1 November 1995 to 2 August 1996.

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 did not desire to submit a statement.

b. The report in question is a Detachment of Reporting Senior/Regular report. The member alleges the report was submitted in error and unfairly.

c. The report appears to be procedurally correct. The member signed two fitness reports for the period in question. The first report was signed on 23 July 1996 and the second report was signed on 25 July 1996. The member contends the first report he signed should be the official report. A report is not considered official until it has been received examined and found suitable for filing and placed in the member's digitized record.

d. Reference (a), Annex A, states' "A summary group consists of all reports which share all of the characteristics in the following block; 2, 3, 5, 8, 15, 17-19, 21, 22, and 42." Therefore, a member in a selected promotion status cannot be group with other members in a regular promotion status. On the first report the member received a promotion recommendation of "Must Promote" and the second report changed his promotion recommendation to "Promotable". The initial report indicated five members in the summary group. Prior to submission one member in the summary group was selected for promotion; therefore, the summary group changed from five to four. In a summary group of four, only one member is authorized an "Early Promote, one "Must Promote" and the rest are "Promotable."

e. The reporting senior is the judge of the performance of subordinates. While the member may disagree with the reporting senior's evaluation, the reporting senior must make a judgment and rank each member in the summary group. In this case the reporting senior assigned a promotion recommendation of "Promotable". Such a ranking does not indicate a failing on Commander [REDACTED] part, but rather the reporting senior gave greater value to the contributions of the other officers in the summary group. In an obvious effort to mitigate the promotion recommendation he explained his actions in the comment section of the report.

f. It should be noted the member was selected for promotion and positions of increased responsibility with the report in his record. The fact that the member perceives the report to be career damaging is not sufficient reason to remove a report.

g. The fitness report has been in Commander [REDACTED] record for almost six years. The member stated he discovered the alleged error or injustice on 31 July 1996. If he felt the report was in error or unjust, timely submission of correction was in order.

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

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



Performance
Evaluation Branch