



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

BJG
Docket No: 7335-00
28 March 2001

LCE [REDACTED] SC USN
[REDACTED]
[REDACTED]

Dear Com [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 28 March 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 dated 1 February and 2 March 2001, copies of which are attached. They also considered your counsel's letter dated 22 March 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 found no authority for your counsel's proposition that your reporting senior could not properly consider your experience and seniority in ranking you. Accordingly, they found no error or injustice in the contested fitness reports. Since they found no defect in these reports, they had no basis to refer them to the reporting senior for revision, remove your failures by the Fiscal Year 2000 and 2001 Staff Commander Selection Boards, or recommend granting you consideration by a special selection board. 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

Copy to:
 Esq.



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

1610
PERS-311
1 February 2001

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

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

Subj: LCDR [REDACTED] USN [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests corrections be made to his fitness report for the periods 1 November 1995 to 31 October 1996 and 1 November 1996 to 18 April 1997.

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

a. A review of the member's headquarters record revealed the reports in question to be on file. They are signed by the member acknowledging the contents of each and his right to submit a statement. The member did not desire to submit a statement.

b. The fitness reports in question are valid reports. Neither of the reports was considered in error or unjust prior to the member's failure of selection to Commander.

c. The member may request the reporting senior to submit a Fitness Report Letter Supplement or Supplemental Fitness Report to reflect the changes the member requested. Refer to reference (a), Annex P, paragraph P-~~7~~.c for procedures on late submission of supplementary material.

c. The reporting senior also states in his letter to the FY-01 05-selection board; "Had I remained on active duty, I would have recommended one officer on the next fitness report cycle."

d. Basically the sole reason for the petition is the member's failure of selection. Failure of selection is not sufficient reason to remove or change a fitness 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

BUREAU OF NAVAL PERSONNEL

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

5420

Pers 85

02 Mar 01

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: [REDACTED]

Ref: (a) PERS-311 MEMO OF 01 FEB 2001
(b) SECNAVINST 1401.1B

Encl: (1) BCNR File

1. Enclosure (1) is returned concurring with the findings of ref (a) and recommending disapproval of [REDACTED] request for a special selection board.

2. It is inappropriate to provide an opinion on behalf of a selection board. The effect that the removal of fitness reports may have on a selection board's decision is not something that can be commented on.

3. [REDACTED] record before the FY-00 and FY-01 Active Duty Lieutenant Commander Staff Promotion Selection Boards did not contain administrative or material errors. The fitness reports in question were valid, signed reports. [REDACTED] record as presented before each board was considered complete and provided a substantially accurate and fair portrayal of the member's naval career. [REDACTED] treated fairly and impartially in accordance with SECNAV policy and title 10.

4. Recommend the member's record remain unchanged. Per ref (b), a special selection board is not warranted.

[REDACTED]

BCNR Liaison, Officer Promotions
And Enlisted Advancements Division