



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

HD:hd  
Docket No: 09274-02  
8 September 2003

LCDR [REDACTED] USN RET  
[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. You requested, in effect, that the peer ranking in the fitness report for 1 November to 6 December 1991 be changed from "3" of "9" to "2" of "9."


A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 August 2003. 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 19 March and 4 and 12 June 2003, copies of which are attached. The Board also considered your letter dated 31 July 2003.

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 opinions. Accordingly, 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,



Executive Director

Enclosures

**DEPARTMENT OF THE NAVY****NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000**1610  
PERS-311  
19 March 2003**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS**

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

Subj: LCDR [REDACTED], USN (RE [REDACTED])

Ref: (a) LCDR [REDACTED] letter to BUPERS of 22 July 1993  
(b) NAVMILPERSCOMINST 1611.1A

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests to have his original fitness report for the period 01 November 1991 to 6 December 1991 changed to the original form.
2. Based on our review of the material provided, we find the following:
  - a. A review of the member's headquarters record did not reveal his record to be on file. A copy of the member's microfiche is provided with his petition with the report in question on file.
  - b. The report in question is a Detachment of Reporting Senior/Regular report. The member alleges the Bureau of Naval Personnel (BUPERS) administratively altered his report and he request to have the fitness report in question returned to the original form.
  - c. The Bureau of Naval Personnel cannot arbitrarily change the ranking of a member on a fitness report. The member states in reference (a) "Bupers subsequently mandated he provide a new ranking order with no " double ranking". It is apparent the member's record was changed manually due to the reporting senior's mandated new ranking order.
  - d. The member further states the new ranking suggested a decline in performance. The member's previous report for the period 8 December 1990 to 31 October 1991 ranked the member as 3 of 11, therefore, the member's performance was not considered declining.
  - e. The members' argument against timely limits on performance correction is without merit. The imposition of the time limit was done to assure timely, objective, and accurate appraisal of performance. A change, not corrections of error, made 11 years after the fact hardly meets the test. The imposition of the two-year time limit became effective October 1990.

f. The member states the date of discovery of the alleged error was February 1992. The member signed the fitness report acknowledging the contents of the report and his right to submit a statement. The member had two years from the ending date of the report to submit a statement or contact the reporting senior to submit supplementary material.

g. 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



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

5420  
PERS-80  
04 JUN 2003

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF  
LCDR [REDACTED] USN [REDACTED]

Encl: (1) BCNR File 09274-02

1. Enclosure (1) is forwarded recommending disapproval. LCDR [REDACTED] alleges the Bureau of Naval Personnel altered his original fitness report for the period 01 November 1991 to 06 December 1991. LCDR [REDACTED] is requesting to have the fitness report in question changed to its original form. The Bureau of Naval Personnel does not arbitrarily change the ranking of a member on a fitness report. It is apparent the member's record was changed manually due to the reporting senior's mandated new ranking order.

2. Concur with PERS-311 findings.

[REDACTED]

Director, Active and Reserve  
Officer Career Progression  
Division

12 Jun 03

MEMORANDUM FOR BCNR COORDINATOR (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN THE CASE OF LCDR [REDACTED] USN, [REDACTED]

Ref: (a) PERS-00ZCB ltr of 5 Jun 03

- 1. In response to reference (a), I have reviewed the BCNR petition of subject-named officer.
- 2. I concur with the positions expressed by PERS-80 and PERS-311. It appears from the package that the Fitness Report was changed after the reporting senior was directed to make a correction, and so the change was made not by BUPERS but by the reporting senior. It further appears that the report was not a declining report, was in fact a very positive report even after the change, and the Petitioner has demonstrated no likelihood that the change had any negative effect on his chances for promotion. Finally, I do not believe that the Petitioner has made a persuasive argument why his failure to file his petition within the time frame established by Congress should be excused.
- 3. I recommend that the petition be denied.
- 4. If I may be of and further assistance, please do not hesitate to contact me at (908) [REDACTED] or [REDACTED]

[REDACTED]