



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

HD:hd
Docket No: 09083-97
12 April 1999

CDR [REDACTED] USNR(RET)
[REDACTED]
[REDACTED]

Dear Commander [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, United States Code, section 1552. You requested removal of your failures of selection to commander which you say resulted from a missing fitness report.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 April 1999. 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 Bureau of Naval Personnel dated 16 and 21 April 1998, copies of which are attached.

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 dated 21 April 1998. They noted that your naval record reflects you failed by the Fiscal Year 54, 55 and 56 Naval Reserve Commander Selection Boards. In light of the information contained in the advisory opinion dated 16 April 1998, that the fitness report in question was forwarded for file on 26 August 1954, the Board found this report was probably in your record for at least the FY56 promotion 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



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

IN REPLY REFER TO

1610
Pers-32
16 APR 98

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

Via: BUPERS/BCNR Coordinator (Pers-00XCB)

Subj: CDR [REDACTED] USNR (RET), [REDACTED]

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his failure to select and retroactive promotion to captain because of a missing fitness report.

2. Review of the material provided revealed only two possible continuity gaps:

a. The first gap appears to be for the period of 17 August 1946 to 26 May 1948. This gap in performance was identified by BUPERS in 1962 and a memo for continuity purposes was filed in [REDACTED]'s official record. It indicated a report was not required as the member was on leave and in an inactive duty status for the period.

b. The second gap identified by BUPERS was for the period of 6 April 1949 to 30 June 1949 and on 29 March 1954 BUPERS requested a fitness report from the member's reporting senior. While the initial response from the reporting senior was that a comprehensive report of performance could not be made because of the time lapse, a graded report was subsequently completed and forwarded for filing on 26 August 1954. This report is signed by [REDACTED]. Typically, this report was for a period of less than 90 days and would not be considered a break in continuity.

3. On 11 August 1954, BUPERS responded to CDR [REDACTED] inquiry concerning his missing fitness report. [REDACTED] was advised that his fitness report record was considered complete from 21 March 1943 to 31 December 1953.

Subj: CDR [REDACTED] USNR (RET) [REDACTED]

4. We cannot determine if the one missing report had an effect on the member's promotion potential and recommend the member's petition be forwarded to the Director, Reserve Officer Promotions, Appointments, and Enlisted Advancement Division (Pers-86/93) for comment on the member's retroactive promotion to O6 and removal of his failure to select.

[REDACTED]

Director, Military Personnel
Evaluation & Correspondence Division



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

5420 REPLY REFER TO
Pers-86
APR 21 1998

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

Via: Assistant for BCNR Matters (Pers-00XCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
COMMANDER [REDACTED], USNR (RET) [REDACTED]

Ref: (a) Your memo 5420 Pers-00XCB of 17 Apr 98
(b) 10 USC § 14108

Encl: (1) BCNR File w/Service Record

1. Per reference (a) we are returning enclosure (1) with the following observations and recommendation that Commander [REDACTED] petition be denied.

2. The request for advancement to the rank of Captain in the case of Commander [REDACTED] is without merit. Per reference (b) officers of the Naval Reserve may not be promoted unless the officer is considered and recommended for promotion to the next higher grade by an authorized selection board. It is our opinion that Commander [REDACTED] was properly considered before each selection board and that the Bureau considered his record to be complete. It is an officer's responsibility to maintain the accuracy of his service record and is considered an essential step in managing each and every promotional opportunity that arises during one's naval career. Nevertheless, it is our opinion that a missing fitness report of less than 90 days would have had little bearing on a board's deliberations. Specific reasons for Commander [REDACTED]' many non-selections are not available because board deliberations are confidential in nature and records of board deliberations are not kept. It is our opinion that Commander [REDACTED] record was simply not competitive enough when viewed within the numerical constraints placed on the board.

3. While Commander [REDACTED] service to his country is laudable, there is no provision in USC Title 10 to effect advancements of Naval reserve officers without a selection board. Commander [REDACTED] can be justifiably proud of his record and contributions; the negative response to his petition does not detract from his honorable service to this nation and the United States Navy.

[REDACTED]
Director, Reserve Officer
Promotions, Appointments, and
Enlisted Advancement Division