



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

HD:hd
Docket No: 01827-01
22 June 2001

LT [REDACTED] USNR
[REDACTED]
[REDACTED]

Dear Lieutenant [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 21 June 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 opinion furnished by the Navy Personnel Command dated 8 May 2001, a copy of which is attached. The Board also considered your undated letter received on 4 June 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 substantially concurred with the comments contained in the advisory opinion. The Board noted that the contested fitness report does not mention any proceedings against you. They further observed that the report refers to "harassment," not "sexual harassment" for which you were charged; and it refers to "fraternization," for which you were not charged. As you were the subject of court-martial proceedings which were pending when the report was submitted, the Board was unable to find that the report was used as a substitute for such action. 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



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

1610
PERS-311
8 May 2001

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

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

Subj: [REDACTED], USN [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 February 2000 to 13 July 2000.

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 indicated he did desire to submit a statement. PERS-311 has not received the member's statement and the reporting senior's endorsement. Per reference (a), Annex S, paragraph S-8, the member has two years from the ending date of the report to submit a statement.

b. The fitness report in question is a Detachment of Reporting Senior/Regular report. The member alleges the fitness report is not indicative of his career and was written prior to a verdict of General courts-martial.

c. Lieutenant [REDACTED] states the report was written prior to a verdict of General courts-martial in which he was found not guilty. Although the charges were dismissed, the reporting senior may properly comment or assign grades based on performance of duty or events that occurred during the reporting period.

d. The fact that the fitness report for the previous reporting period from the same reporting senior is a better report has no bearing on the fitness report in question. A fitness report does not have to be consistent with previous or subsequent. Each fitness report represents the judgment of the reporting senior during a particular reporting period.

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