



2595-99

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

HD:hd  
Docket No: 02595-99  
22 June 2001

[REDACTED] SNR  
[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 of the United States Code, section 1552.

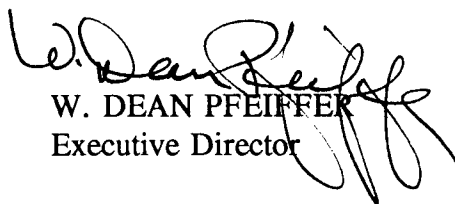
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 June 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 opinions furnished by the Navy Personnel Command undated and dated 8 January 2001, the Department of Defense Inspector General letter dated 26 April 2000, and the Naval Inspector General (NAVINGEN) letter dated 19 July 1999, copies of which are attached. The Board also considered enclosure (1) to the NAVINGEN letter of 19 July 1999 (NAVINGEN Report of Investigation of 15 July 1999) and your letter dated 8 October 1999 with enclosures.

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 agreed with the advisory opinion dated 8 January 2001. They were unable to find that the contested fitness report was in reprisal for any protected communication you made. 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

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



2595-99

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

1610  
NPC-311

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

Via: NPC/BCNR Coordinator (NPC-00XCB)

Subj: CDN [REDACTED] USNI [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual  
(b) NAVADMIN 049/97

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal or return of his fitness report for the period 16 February 1998 to 10 May 1998.
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 make a statement. The member indicated his desire to make a statement, however, the member's statement and first endorsement has not been received by NPC-311.
  - b. Paragraph 4.d of reference (b) states: "prepare a Not Observed/Detachment of Individual Report with comments for every period of active duty that is greater than ten days and less than ninety days. PIMS are not required for brief service. For administrative purposes only, or for duty with the member's own reserve unit". This change eliminates the requirement for a graded Detachment of Individual Report for reservists on active duty for training.
  - c. The member partially proves the report to be unjust or in error.
3. We recommend partial approval of the member's request. We recommend the report be changed to a NOB Report, remove all grades and promotion recommendation leaving the Comments on Performance in block-41.

[REDACTED]  
Head, Performance  
Evaluation Branch



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

1610  
PERS-311  
8 January 2001

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

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

Subj: O [REDACTED] USN [REDACTED]

Ref: (a) Our Memo 1610 PERS-311 Undated  
Ref: (b) BUPERSINST 1610.10 EVAL Manual  
(c) NAVADMIN 049/97

Encl: (1) BCNR File

1. Cancel reference (a).
2. Enclosure (1) is returned. The member requests the removal or return of his fitness report for the period 16 February 1998 to 10 May 1998.
3. 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, however, the member's statement and the reporting senior's endorsement has not been received by PERS-311.
  - b. The report in question is a Detachment of Individual/Regular report. Reference (c) states "prepare a Not Observed/Detachment of Individual report with comments for every period of active duty that is greater than ten days and less than ninety days. PIMS are not required for brief service, for administrative purposes only, or for duty with the member's own reserve unit". This change eliminates the requirement for a graded Detachment of Individual report for reservists on active duty for training. However, the intent of reference (c) was not to abrogate the reporting senior's responsibility to report sub-standard performance.
  - c. The report in question is a fully graded report with comments and a promotion recommendation. The intent of the report was clearly to document the sub-standard performance of Commander [REDACTED], therefore, the report should have been submitted as a Special report vice a Detachment of Individual report. In block-41, the reporting senior clearly justifies a Special Report.

d. We have administratively removed the "X" from block-11 and inserted a "X" in block-13 to indicate a Special Report and we are in the process of notifying [REDACTED] reporting senior of our actions.

4. We recommend the record remain unchanged except as noted above.

[REDACTED]

Head, Performance  
Evaluation Branch



**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
400 ARMY NAVY DRIVE  
ARLINGTON, VIRGINIA 22202-2885**

APR 26 2000

[REDACTED]

The Navy concluded that the above adverse personnel actions were not in reprisal for your protected communications. We conducted a thorough review of the Navy report of investigation and agree with its conclusion. Accordingly, we have closed your case for further consideration under 10 U.S.C. 1034.

Enclosed is a copy of the Navy report of investigation, redacted under the guidelines of the Freedom of Information Act.

Should you have any questions, please contact [REDACTED]  
Office of Departmental Inquiries, [REDACTED]

Sincerely,

**Special Inquiries**

## Special Inquiries

**Enclosure**

