



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

SMC  
Docket No: 04494-01  
4 October 2001

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: BM1 (SW) [REDACTED], USN, [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 17May01 w/attachment  
(2) PERS-311 memo dtd 5Sep01  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the enlisted performance evaluation reports for 16 December 2000 to 1 February 2001 and 2 February to 15 March 2001. Copies of these reports are at Tabs A and B, respectively.
2. The Board, consisting of Messrs. Bishop and Novello and Mrs. Davies, reviewed Petitioner's allegations of error and injustice on 4 October 2001, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
  - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
  - b. In correspondence attached as enclosure (2), the Navy Personnel Command office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that his request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's field service record be corrected by removing therefrom the following enlisted performance evaluation reports and related material; and that these reports not be filed in his digitized headquarters record in the future:

Date of Report	Reporting Senior	Period of Report From	To
06Mar01	CDE [REDACTED] USN	16Dec00	1Feb01
15Mar01	[REDACTED] USN	2Feb01	15Mar01

a. That there be inserted in Petitioner's naval record ONE memorandum in place of both removed reports, containing appropriate identifying data; that the memorandum state that the portion of Petitioner's performance evaluation record for 16 December 2000 to 15 March 2001 has been removed by order of the Secretary of the Navy in accordance with the provisions of federal law and may not be made available to selection boards and other reviewing authorities; and that such boards may not conjecture or draw any inference as to the nature of the removed material.


b. That appropriate corrections be made to the magnetic tape or microfilm maintained by the Navy Personnel Command.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

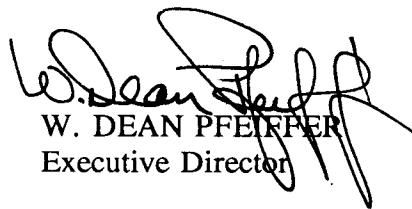
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director



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

4494-01

1610  
PERS-311  
5 September 2001

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

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

Subj: BM1 (S) [REDACTED] US [REDACTED]

Ref: (a) CO, US [REDACTED] (FFG-36) ltr 5812 [REDACTED]  
(b) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his performance evaluations for the periods 16 December 2000 to 1 February 2001 and 2 February 2001 to 15 March 2001.

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 the reports in question to be on file. PERS-311 received the reports, however, the reports have not been placed in the member's digitized record.

b. The report for the period 16 December 2000 to 1 February 2001 is a Special/Regular report. The report is adverse and submitted to document the member receiving Non-Judicial Punishment (NJP) on 1 February 2001. The report for the period 2 February 2001 to 15 March 2001 is a Periodic/NOB/Regular report.

c. Per reference (a), the member's NJP was set aside on 17 April 2001. Per reference (b), Annex S, paragraph S-12, the comments, performance trait marks, and promotion recommendation are now considered inappropriate.

d. The member proves the reports to be unjust or in error.

3. In view of the above we recommend the performance evaluation in question be removed and/or not be filed in the member's record.

[REDACTED]

Performance  
Evaluation Branch