



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

HD:hd
Docket No: 07920-00
1 November 2001

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

Subj: ~~LA [REDACTED] USN [REDACTED]~~
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 22 Sep 00 w/attachments
(2) PERS-311 memos dtd 2 Mar and 23 Oct 01
(3) Subject's ltrs dtd 17 May 01 w/encls and
31 Jul 01
(4) PERS-OOJ memo dtd 15 Oct 01
(5) 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 fitness report for 1 February to 9 September 1998, a copy of which is at Tab A.

2. The Board, consisting of Messrs. Harrison and Schultz and Ms. Moidel, reviewed Petitioner's allegations of error and injustice on 25 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 their two advisory opinions at enclosure (2), PERS-311, the Navy Personnel Command office having cognizance over fitness report matters, recommended that Petitioner's record remain unchanged. However, the second opinion added that if PERS-OOJ, the Special Assistant for Minority Affairs to the Chief of Naval Personnel, determines that her command was biased against her, they would have no objection to removing the fitness report in question.

c. By her correspondence at enclosure (3), Petitioner submitted additional information in support of her application.

d. In correspondence attached as enclosure (4), PERS-00J recommended removing the contested report, stating "[Petitioner] appears to be the victim of personal bias."

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (4), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing therefrom the following fitness report and related material:

Date of Report	Reporting Senior	Period From	of	Report To
98Sep03	CDF [REDACTED]	98Feb01		98Sep09

b. That there be inserted in Petitioner's naval record a memorandum in place of the removed report containing appropriate identifying data concerning the report; that the memorandum state that the report 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 report.

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
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.

Robert D. Zsalmán
For W. DEAN PFEIFFER
Executive Director



7920-00

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

1610
PERS-311
2 March 2001

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

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

Subj: LT [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 her fitness report for the period 1 February 1998 to 9 September 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. The report was received without the member's signature. On 13 November 1999 the report was returned to the reporting senior for correction and resubmission. No response was received and tracer action was initiated and the report was returned with block-46 filled in with the phrase "TRANSFERRED - NO RESPONSE TO TRACER" and the report was filed in the member's record.

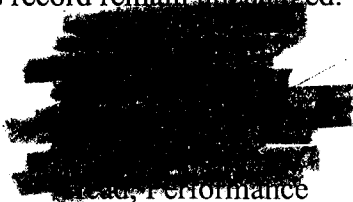
b. The report in question is a Detachment of Individual/Regular report. The member alleges she was not counseled and the fitness report was improperly prepared and was treated unfairly.

c. The report is procedurally correct. The performance trait marks reflect the reporting senior's perception of the subordinate's performance and may be influenced by incidents that occurred during the period of the report. It is acceptable for the reporting senior to evaluate a member's performance by taking into account facts which has been established through reliable evidence to the reporting senior's satisfaction.

d. Whether the member was given written, or oral counseling, weaknesses discussed with her, or she was given an opportunity to make a statement before its submission does not mean the report is in error. If the member wishes to submit a statement and it is properly endorsed by the reporting senior, we will have it placed in the member's digitized record.

e. 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

1610
PERS-311
23 October 2001

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

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

Subj: LT [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 her fitness report for the period 1 February 1998 to 9 September 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. The report was received without the member's signature. On 13 November 1999 the report was returned to the reporting senior for correction and resubmission. No response was received and tracer action was initiated and the report was returned with block-46 filled in with the phrase "TRANSFERRED - NO RESPONSE TO TRACER" and the report was filed in the member's record.

b. The report in question is a Detachment of Individual/Regular report. The member alleges she was not counseled and the fitness report was improperly prepared and was treated unfairly.

c. The report is procedurally correct. The performance trait marks reflect the reporting senior's perception of the subordinate's performance and may be influenced by incidents that occurred during the period of the report. It is acceptable for the reporting senior to evaluate a member's performance by taking into account facts which has been established through reliable evidence to the reporting senior's satisfaction.

d. Whether the member was given written, or oral counseling, weaknesses discussed with her, or she was given an opportunity to make a statement before its submission does not mean the report is in error. If the member wishes to submit a statement and it is properly endorsed by the reporting senior, we will have it placed in the member's digitized record.

e. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged, however, if PERS 00J determines the command was bias we have no objection for the removal of the report in question.



Performance
Evaluation Branch

15 October 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION ICO [REDACTED] USN,
[REDACTED]

Ref: (a) BUPERSINST 1610.10

Encl: (1) BNCR PETITION PACKAGE DOCKET NO. 07920-00

1. Board for Correction of Naval Records (BCNR) requested PERS-00J opinion on the case of [REDACTED] who has petitioned for the removal of performance report dated 01 Feb 98 to 09 Sep 98.

2. After review of enclosure (1), I perceived incidents of personal bias and improper performance evaluation report procedures against [REDACTED]. Her documentation of efforts to address disagreements with the chain of command substantiates her allegations of misuse of the performance evaluation system. Specifically:

a. [REDACTED] was not counseled at anytime prior to receiving her unfavorable performance report. She did not have the opportunity to correct any discrepancies noted to her at the time of her notification that she was relieved as Officer In Charge (OIC) of both Personnel Support Detachment (PSD) and Customer Service Desk (CSD), Guam. BUPERSINST 1610.10, Annex C, paragraph C-2 clearly defines that an individual shall be counseled at the midpoint of the evaluation period. Feedback from these counseling sessions is an important element for the member being evaluated as well as the reporting senior.

b. The performance report was never signed [REDACTED]. She requested numerous times that her report be forwarded to her for signature and to submit a rebuttal statement, but no action was taken by the command. A letter was also sent to the Reporting Officer [REDACTED] asking that another FITREP be sent for her to sign and again, no action taken. Based on documentation written by [REDACTED] the performance report was never obtained by her to sign. Proper procedures for a member to sign a FITREP were not followed. BUPERSINST 1610.10, Annex O, paragraph O-4, states that if member signature was not obtained after report was forwarded for signature and not returned, signature block must read, "TRANSFERRED (or SEPERATED) - NO RESPONSE TO TRACER."

7920-00

Signature block on report period 01 Feb 98 to 09 Sep 98 is incomplete.

c. [REDACTED] prior performance evaluations stated outstanding leadership. In fact, her FITREPs prior to and after the report period in question noted excellent evaluations with "must promote" or "early promote" recommendations, with grades of 3.0 to 4.0 in Mission Accomplishment and Leadership and a "1 of 8 ranking of all designators." [REDACTED] was given a 2.0 in Mission Accomplishment and Leadership under the report in question. This unfavorable grade contradicts the fact that she was the OIC of PSD Guam when the Junior and Senior Sailors of the Year were selected, in addition she received the PSD and CSD of the Quarter awards under her regime, which is a testament to her leadership ability.

d. The Chief of Staff of COMNAVMAR, [REDACTED], appeared to be deliberate in his personal grievances against [REDACTED] CAPT [REDACTED] grievances were only briefed to [REDACTED] [REDACTED] was satisfied with her work and that "everything was going well." Again, communication from the Chief of Staff was not made known [REDACTED] until the day she received notification that she was relieved of her duties from [REDACTED]

3. Based upon my evaluation of the information provided by enclosure (1), [REDACTED] appears to be the victim of personal bias and improper performance evaluation report procedures. I recommend the removal of performance report for the period of 01 Feb 98 - 09 Sep 98.

[REDACTED]

Captain U.S. Navy
Special Assistant for Minority
Affairs to the Chief of Naval
Personnel (Pers-00J)