



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

HD:hd
Docket No: 08247-00
30 March 2001

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

Subj: LT [REDACTED], SC, [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 24 Nov 00 w/attachments
(2) PERS-311 memo dtd 23 Feb 01
(3) PERS-85 memo dtd 14 Mar 01
(4) 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 June to 19 December 1996 and all related correspondence, a copy of which is at Tab A. Petitioner further impliedly requested removal of his failure of selection by the Fiscal Year (FY) 01 Lieutenant Commander Staff Selection Board. Finally, he expressly requested that he be granted a special selection board. Enclosure (2) shows the Navy Personnel Command (NPC) office responsible for performance evaluations has removed the contested fitness report and all related correspondence.

2. The Board, consisting of Messrs. Taylor and Zs Salman and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 29 March 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 (3), the NPC office having cognizance over active duty promotions has commented to the effect that Petitioner's request for a special selection board has merit and warrants favorable action. They stated the removal of the contested fitness report "substantially improves the promotion competitiveness of [Petitioner's] record amongst his peers."

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial relief, specifically, removal of Petitioner's failure of selection for promotion.

The Board agrees with the advisory opinion at enclosure (3) in finding that the failure of selection should be removed. Notwithstanding the recommendation in this opinion for a special selection board, the Board finds this request should be denied. They find that Petitioner's consideration by the regular promotion board, scheduled for 14 May 2001, with a corrected fitness report record and status as not having failed of selection, will provide him adequate relief.

In view of the above, the Board directs the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to lieutenant commander as an officer who has not failed of selection for promotion to that grade.

b. 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.

c. 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.

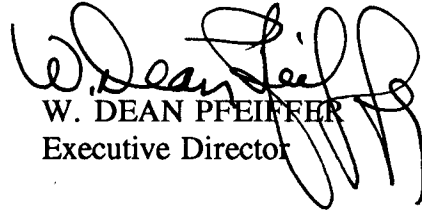
d. That Petitioner's request for a special selection board be denied.

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.


W. DEAN PFEIFFER
Executive Director



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

1610
PERS-311
23 February 2001

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

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

Subj: [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual
(b) NAVOP 043/95

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his original fitness report for the period 1 June 1996 to 19 December 1996, his statement and reporting senior's endorsement.

2. Based on our review of the material provided, we find the following:

a. A review of the member's 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's statement and reporting senior's endorsement are reflected in his digitized record.

b. The report in question is a Detachment of Individual/Regular report. The member alleges the report is administratively incorrect because the promotion recommendation and trait grades are inconsistent with each other.

c. The fitness report for the period 1 June 1996 to 19 December 1996 was filed in error. Per reference (a), the report is considered adverse. Reference (b) states; "Now up to two traits, excluding equal opportunity, may be assessed as progressing (2.0), and still maintain an overall evaluation and recommendation of promotable. Equal Opportunity must be evaluated as 3.0 (meet navy standards) or higher to maintain eligibility for advancement and receive a recommendation of promotable. A promotion recommendation may not be assigned with any trait grade of 1.0."

d. The member states in his petition that he contacted the reporting senior in writing, requesting to have the report corrected. [REDACTED] responded back to him denying his request. The report is not procedurally correct.

e. The fact that a fitness report alone may adversely affect a member's promotion opportunity is not sufficient reason to remove a report from the record.

f. The member proves the report to be unjust or in error.

3. We have removed the report and all related material and replaced it with a continuity memorandum.

4. We recommend the case be closed administratively.



Head, Performance
Evaluation Branch



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

5420
Pers 85
14 Mar 01

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: [REDACTED] USN [REDACTED]

Ref: (a) Pers-311 memo of 23 Feb 01

Encl: (1) BCNR File

1. Enclosure (1) is returned concurring with the findings of ref (a) and recommending approval [REDACTED] request for a special promotion selection board.

2. The removal of the fitness report addressed in ref (a), substantially improves the promotion competitiveness of LT [REDACTED] record amongst his peers. Recommend [REDACTED] be granted a FY-01 Active Duty Lieutenant Commander Supply Corps Special Promotion Selection Board.

[REDACTED]

BCNR Liaison, Officer Promotions
And Enlisted Advancements Division