



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

HD:hd  
Docket No: 01424-02  
27 January 2003

LT [REDACTED] CHC USNR  
[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.

Your request to remove the concurrent fitness report for 27 September 2000 to 11 April 2001 was not considered, as the Navy Personnel Command (NPC) has removed it from your record, to get the regular reporting senior's signature on the report and his endorsement on your rebuttal.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 January 2003. 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 NPC dated 23 September 2002, a copy of which is attached. The Board also considered your letter dated 17 December 2002 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 concurred with the advisory opinion as it relates to the contested special fitness report for 8 July to 27 September 2000. While the Board does not condone the late submission of the report, they were unable to find this invalidated it, noting you were able to make a rebuttal statement. They found the disapproval of the request for your detachment for cause did not preclude the reporting senior from relieving you of your duties as assistant group chaplain, nor did it preclude him from documenting the reasons for this relief in the contested special fitness report. The Board was unable to find the criticisms leveled against you in this report were unjustified, nor could they find your command ignored what you describe as "resistance, bordering on hostility by the MCAS [Marine Corps Air Station]-Iwakuni station chaplains towards the need for liturgical

Protestant worship alternatives, in general, or towards [yourself] in particular." 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  
23 September 2002

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 his fitness report for the period <sup>7/11/00</sup> 7 July 2000 to 27 September 2000 and <sup>9/28/00</sup> 28 September 2000 to 11 April 2001.

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

a. A review of the member's headquarters record revealed both reports in question to be on file. The reports are signed by the member acknowledging the contents of each 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 reporting senior's endorsement for the report ending 27 September 2000. The member provided a copy of his statement with his petition, however, it is not suitable for filing as it is not signed by the member or endorsed by his reporting senior. The member's statement and the reporting senior's endorsement are reflected in his digitized record for the report ending 11 April 2001.

b. The fitness report ending 27 September 2000 is a Special/Regular report and the report ending 11 April 2001 is a Detachment of Individual/Concurrent/Regular report. The member alleges the reports are inaccurate and prepared without any attempt at counseling and were not based on actual performance of his duties.

c. In reviewing petitions that question the exercise of the reporting senior's evaluation responsibilities, we must determine if the reporting senior abused his/her discretionary authority. For us to recommend relief, the petitioner has to show that either there is no rational support for the reporting senior's action or that the reporting senior acted for an illegal or improper purpose. The petitioner must do more than just assert the improper exercise of discretion; he must provide evidence to support the claim. I do not believe Lieutenant [REDACTED] has done so. The fitness report itself represents the opinion of the reporting senior. Nothing provided in the petition shows that the reporting senior acted for illegal or improper purposes or that the report lacked rational support.

d. The fitness report for the period ending 27 September 2000 is procedurally correct. The reporting senior is charged with commenting on the performance or characteristics of each member under his command and determines what material will be included in a fitness report. The contents and grades assigned are at the discretion of the reporting senior. The report represents the judgment and appraisal authority of the reporting senior. The reporting senior clearly explains in the comment section of the report his reason for preparing the report as he did.

e. The concurrent fitness report and the member's statement for the period 27 September 2000 to 11 April 2001 was received and filed without the regular reporting senior's signature and his endorsement to the member's statement. We have removed the report and the member's statement and we are in the process of returning it to the regular reporting senior for his signature and an endorsement to the member's statement.

e. Counseling of a member takes many forms. Whether or not the member was given oral or written counseling or issued a Letter of Instruction (LOI) does not invalidate a fitness report.

f. The fact that the member's previous and subsequent fitness reports were excellent reports has no bearing on the fitness reports in question. A fitness report does not have to be consistent with previous or subsequent reports.

g. Lieutenant [REDACTED] provided several letters of support and one from his previous reporting senior. While these comments add insight and reflect favorably on the member's performance, they do not show the fitness reports in question to be in error.

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

3. We recommend the member's record remain unchanged.

[REDACTED]  
Performance  
Evaluation Branch