



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

BJG  
Docket No: 2924-02  
13 June 2003

IT2 [REDACTED] USN  
[REDACTED]  
[REDACTED]

Dear Petty Off [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 12 June 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 opinions furnished by the Navy Personnel Command dated 3 September and 17 October 2002, copies of which are attached.

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 comments contained in the advisory opinions.

The Board was unable to find that any disagreements you had with the reporting senior involved his having directed you to perform work in violation of established procedures and instructions. The Board was likewise unable to find you had no mid-term counseling, noting that the contested evaluation report shows you did have it. Finally, although the statement you provided from a lieutenant indicates another person informed him you never failed a cryptographic material systems (CMS) assist visit during the pertinent period, the Board was unable to find the reporting senior erred by stating "C5BR2 CMS Custodian assists unsuccessful." In this regard, the Board noted that neither your rebuttal to the contested report, nor your statement in support of your application, alleged the reporting senior's statement was incorrect.

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

Enclosures



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

1610  
PERS-311  
3 September 2002

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

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

Subj: IT2 [REDACTED] U [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his performance evaluation for the period 16 March 2000 to 26 February 2001.

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 submit a statement. The member's statement and reporting senior's endorsement is reflected in the member's digitized record.

b. The report in question is a Special/Regular report. The member alleges the performance trait average and promotion recommendation does not reflect his performance.

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 Petty Officer [REDACTED] has done so. The performance evaluation represents the opinions of the reporting senior. Nothing provided in the petition show the reporting senior acted for illegal or improper purposes or that the report lacked rational support.

d. The reporting senior is charged with commenting on the performance or characteristics of each individual under his command and determines what material will be included in each report. The contents and grades assigned on a report and recommendations concerning promotion and assignments are at the discretion of the reporting senior.

e. A performance evaluation does not have to be consistent with previous or subsequent reports. Each report represents the judgment of the reporting senior during a particular reporting period.

f. 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 performance evaluation.

g. 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

2924-02



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

1430  
Ser 811/450  
17 Oct 02

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF  
[REDACTED]

Ref: (a) BUPERSINST 1430.16E

Encl: (1) BCNR file #02924-02

1. Based on policy and guidelines established in reference (a), enclosure (1) is returned recommending disapproval.
2. Petty Officer [REDACTED] requested removal of his performance evaluation for the period of 16 March 2000 to 26 February 2001 and recalculate his final multiple for the September 2001, cycle 172 exam for IT1.
3. Based on the comments contained in PERS-311 memorandum of 3 September 2002, the evaluation in question is valid and a favorable endorsement can not be granted regarding this petition.

[REDACTED]

By direction