



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

BJG
Docket No: 5515-01
11 February 2002

DPC [REDACTED] SN RET
[REDACTED]

Dear Ch [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 7 February 2002. 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 the Navy Personnel Command dated 23 October 2001, a copy of which is 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 opinion. They were unable to find the contested performance evaluation reports violated the Privacy Act, title 5, United States Code, section 552a, or any other provision of law. 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

1616
PERS-311
23 October 2001

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

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

Subj: DPC [REDACTED], SN (RE [REDACTED])

Ref: (a) BUPERSINST 1616.9A EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his performance evaluation report for the period 2 October 1992 to 3 April 1993 and 4 April 1993 to 30 September 1993.

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

a. A review of the member's headquarters record revealed the reports in question to be on file. Both 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, however, NPC has not received the member's statements and reporting senior's endorsement.

b. The performance evaluation for the period 2 October 1992 to 3 April 1993 is a Transfer/Regular report and the performance evaluation for the period 4 April 1993 to 30 September 1993 is a Periodic/Regular report. The member alleges it was wrong for the reporting senior to make note of a medical condition and was in violation of Navy Regulations and United States Code.

c. Per reference (a), the instruction in effect at the time of the reports states; "**Medical Reports and Summaries.** Do not quote from medical reports or summaries and do not mention medical conditions (including pregnancy) unless necessary to explain other matters in the report.

d. The reports are procedurally correct. The reports in question do not mention any medical condition. The report only states; "recommendation for promotion pending conclusion of medical board results and medical rehabilitation."

e. The reporting senior is charged with commenting on the performance or characteristics of each member under his/her command and determines what material will be included in a performance evaluation. The report represents the judgment and appraisal authority of the reporting senior.

f. The reports have been in the member's record for more than eight years. If the member felt the reports were in error or unjust he could have submitted a statement for inclusion in his record.

g. The member does not prove the reports are unjust or in error.

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



Performance
Evaluation Branch