



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

HD:hd
Docket No. 11036-08
9 January 2009

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

Subj: ~~REDACTED~~
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 30 Oct 08 w/attachments
(2) Subject's e-mail dtd 5 Jan 09
(3) PERS-311 memo dtd 22 Dec 08
(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 27 September to 7 December 2006 (copy at Tab A), and replacing it with a "not observed" report for the same period. By enclosure (2), Petitioner amended her application to request that the contested report be replaced by a memorandum of continuity, rather than a "not observed" report.

2. The Board, consisting of Messrs. Boyd, Ivins and Rothlein, reviewed Petitioner's allegations of error and injustice on 8 January 2009, 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 Navy Personnel Command office having cognizance over fitness report matters has recommended that the contested report be removed and replaced by a memorandum of continuity.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), 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 of Report	
		From	To
27 Feb 07		27 Sep 06	7 Dec 06

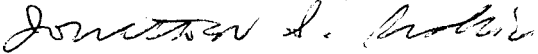
b. That there be inserted in Petitioner's naval record a memorandum in place of the removed report containing appropriate identifying data concerning the report; that the memorandum state that the report has been removed by order of the Secretary of the Navy in accordance with the provisions of federal 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. 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
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 PREIFFER
Executive Director