



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

HD:hd
Docket No: 04678-98
19 October 1999

CAPT [REDACTED] USN
[REDACTED]
[REDACTED]

Dear Capt [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 for a special selection board could not be considered, as your promotion to captain made you ineligible.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 October 1999. 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 16 and 23 December 1998, copies of which are attached. The Board also considered your letter dated 17 February 1999 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 comments contained in the advisory opinion dated 16 December 1998 in concluding that the contested civil action report should stand without amendment. Since they found no defect in your record as presented to the FY 99 Line Captain Selection Board, they had no grounds to remove your failure by that promotion board. 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

Enclosures

4678-98



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

IN REPLY REFER TO

1420
Ser 834C/1098

DEC 16 1998

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

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE
OF CDR [REDACTED] USN, [REDACTED]

Ref: (a) Pers-OOZCB/NPC-OOZCB 5420 memo of 20 Oct 98
(b) MILPERSMAN 3410100 (1611-010)
(c) SECNAVINST 5300.29A

Encl: (1) BCNR File 04678-98 w/Microfiche Service Record

1. Reference (a) requested comments and recommendations regarding [REDACTED]'s request to have his civil action report of arrest for Driving Under the Influence of alcohol (DUI) and conviction for Reckless Driving and Refusal to Submit to a Breathalyzer to be expunged from his official record.

2. [REDACTED] was arrested in Norfolk, VA, on 24 Jul 96 and charged with DUI, Reckless Driving, and Failure to Submit to a Breathalyzer. [REDACTED] as subsequently convicted of Reckless Driving and Refusal to Submit to a Breathalyzer. [REDACTED] acknowledged the civil action report would be filed in his official service record and submitted a lengthy statement on his own behalf.

3. The documents contained in [REDACTED] official service record accurately reflect his conviction for Reckless Driving and Refusal to Submit to a Breathalyzer. The report of misconduct and adjudication meet the standard of references (b) and (c) for inclusion in a member's official service record. [REDACTED] statement will allow an authorized viewer the opportunity to objectively evaluate his case. This appears to have been an isolated, one time, lapse in judgment. [REDACTED] performance,

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE
OF CDR [REDACTED] USN, [REDACTED]

including his tour in command, has been superb since this incident. He should now be given every opportunity to continue his Navy career in a promotable light. Accordingly, enclosure (1) is returned to BCNR for final action.



Captain, U.S. Navy
Director, Personnel Progression
Performance and Security Department



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

5420

Ser 85/357

23 Dec 98

4678-98

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: CDR [REDACTED] USN, [REDACTED]

Ref: (a) NPC-83 memo 1420 ser 834C/1098 of 16 Dec 1998
(b) MILPERSMAN 3410100 (1611-010)
(c) SECNAVINST 5300.29A

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of [REDACTED] request to remove his failure of selection resulting from the FY99 Active Captain Unrestricted Line Promotion Selection Board and consideration for a special promotion selection board.

2. The findings of [REDACTED] record addressed in reference (a), pursuant to references (b) and (c), further validate disapproval of his request. Since the report of misconduct and adjudication meets the standards for inclusion in his record, failure of selection removal and special board consideration is not warranted.

3. [REDACTED] record as reviewed by the regular promotion board was complete. The board had all the required information upon which to make a promotion decision and determined him not best qualified for promotion. Recommend disapproval of his request.

[REDACTED]
[REDACTED] Officer Promotions
and Enlisted Advancements Division