



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

HD:hd
Docket No: 02114-98
19 October 1999

LCDR [REDACTED] USNR RET
[REDACTED]
[REDACTED]

Dear Commander [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. You requested consideration by a special selection board for promotion to commander.

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 4 June and 20 August 1998, 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 opinion dated 20 August 1998 in finding your selection for promotion would have been unlikely, even if your fitness report record had been entirely complete and correct. Since they found insufficient basis to remove any of your failures of selection for promotion, they had no basis to grant you a special selection 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

2114-98



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

IN REPLY REFER TO
1611
Pers-32
JUN 4 1998

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

Via: BUPERS/BCNR Coordinator (Pers-00XCB)

Subj: LCDR [REDACTED], USNR, [REDACTED]

Ref: (a) BUPERSINST 1611.17, FITREP Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member review of his fitness reports for continuity and a special selection board.

2. Based on our review of the material provided, we are providing the following comments:

a. Review of the member's headquarters record revealed two fitness reports on file for the period of 1 October 1993 to 30 September 1994. This report is a periodic, concurrent, regular report which fulfills continuity in accordance with reference (a), the instruction in effect at the time. Even though the member's signature is not contained in block 82 as required by reference (a), Chapter 1, the member clearly has knowledge of the report and has not submitted a statement to the report. The absence of the member's signature does not invalidate the report. The member's regular reporting senior signed the report as required in block 87. There is a duplicate copy of this report on file which is being removed administratively as it does not contain the regular reporting senior's signature in block 87.

b. Further review of the member's record revealed a periodic, concurrent report for the period of 4 July 1994 to 30 September 1994. This report is signed by the member, but reflects an invalid regular reporting senior in block 87. In accordance with reference (a), Chapter 3, paragraph 3-6, this report is invalid and is being removed administratively. The duties performed during this period are covered in the member's regular report for the period of 1 October 1993 to 30 September 1994.

c. Further review of the member's continuity revealed the following:

- A report for the period of 30 September 1994 to 16 December 1994. This report is a detachment of reporting senior, concurrent report. This report contains the signature of an invalid regular reporting senior, [REDACTED], and is being

Subj: LCDR [REDACTED] USNR, [REDACTED]

removed administratively. Because of the period of time since the report and inability to locate [REDACTED] the regular reporting senior at the time, we are filing a continuity memo in the member's record.

- A detachment of officer, concurrent regular report for the period of 17 December 1994 to 29 January 1995. This is an NOB report which fulfills continuity and was prepared in accordance with reference (a), Chapter 3.

- The next report on file is for the period of 30 January 1995 to 30 September 1995. This report is a periodic, detachment of officer, concurrent regular report which fulfills continuity as required by reference (a), Chapter 3.

d. We cannot determine if the above reports were reviewed by the FY 94/95/96/97 selection boards as all of the reports have been filed in the member's headquarters record between June 1996 and April 1997.

e. Liaison with JAG did not reveal receipt of an Article 138, Complaint of Wrong, from the member even though the member includes a copy with his petition.

3. We recommend the member's petition be forwarded to the Director, Reserve Officer Promotions, Appointments, and Enlisted Advancement Division (Pers-86) for comment on the member's request for a special selection board.

[REDACTED]

Director, Military Personnel
Evaluation & Correspondence
Division



DEPARTMENT OF THE NAVY

BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

2114-98

IN REPLY REFER TO
5402
Pers-86

AUG 20 1998

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

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

Subj: LCP [REDACTED]

Ref: (a) 10 USC § 1552
(b) Your memo 5420 Ser Pers-00XCB of 3 AUG 98
(c) Pers-32 ltr 1611 Ser Pers-32 of 4 JUN 98

Encl: (1) BCNR File 02114-98 w/Service Record

1. Per reference (a) and in response to reference (b), we are returning enclosure (1) with following observations and recommendation concerning [REDACTED] case.

2. [REDACTED] was properly considered during the previous five (FY94 through FY98) Naval Reserve Commander Selection Boards. In addition, his record was before the FY99 selection board which has yet to complete the approval process. Our records also indicate that [REDACTED] submitted letters to the president for each selection board with the exception of the FY97 board; this afforded him the opportunity to clarify any pertinent issues he deemed essential for board review. Determination of fitness report validity is under the purview of Pers-32; reference (c) pertains. Our advisory opinion is limited to a discussion concerning the effect on [REDACTED] promotion potential regarding: (1) the removal of an unsigned duplicate copy of a concurrent fitness report dated 01Oct93-30Sep94; (2) removal of a 04Jul94-30Sep94 concurrent fitness report; and (3) removal of a 30Sep94-16Dec94 concurrent fitness report. We believe that removing these fitness reports because of invalid and/or missing signatures on concurrent fitness reports would not significantly improve [REDACTED] promotion potential. Since joining the reserves, he has neither served in a leadership position nor competed favorably against his contemporaries.

3. Specific reasons why [REDACTED] failure to select from the FY94 through FY98 selection boards are not available since selection boards proceedings are confidential in nature and records of deliberations are not kept. It is our opinion that his record simply was not competitive enough when considered within the numerical constraints placed on the boards.

[REDACTED]

Director, Reserve Officer
Promotions, Appointments and
Enlisted Advancement Division