



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

SMC  
Docket No: 02679-99  
7 October 1999

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

Subj: AMS [REDACTED] JSN [REDACTED],  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 21Apr99 w/attachments  
(2) PERS-311 memo dtd 20Sep99  
(3) 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 enlisted performance evaluation report for 16 November 1996 to 29 October 1997. A copy of this report is at Tab A.

2. The Board, consisting of Messrs. Ensley and Ivins and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 7 October 1999, 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 (2), the Navy Personnel Command office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that his request has merit and warrants favorable action. This advisory opinion states that the contested transfer report was prepared in anticipation of Petitioner's transfer from the command on 29 October 1997; that although his transfer date changed to a later date, the report in question was inadvertently forwarded for inclusion in his official file; and that his record also includes a periodic report for 16 November 1996 to 15 November 1997, which overlaps the report at issue, maintaining continuity.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), 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 enlisted performance evaluation report and related material:

Date of Report	Reporting Senior	Period From	of	Report To
6Oct97	<u>████████████████████ USN</u>	16Nov96		29Oct97

b. That NO memorandum be entered in Petitioner's record in place of the removed report, since the period is covered by another report on file.

c. That appropriate corrections be made to the magnetic tape or microfilm maintained by the Navy Personnel Command.

d. 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.

e. 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. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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*  
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 PFEIFFER  
Executive Director



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

1610  
PERS-311  
20 SEP 99

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

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

Subj: AMS1 [REDACTED], USN, [REDACTED]

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his performance report for the period of 16 November 1996 to 29 October 1997.

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

a. A review of the member's digitized record revealed the report in question to be on file. A further review of the member's record revealed a "Periodic Regular" report for the period 16 November 1996 to 15 November 1997.

b. The performance report for the period in question was prepared in anticipation of the member's transfer from the command on 29 October 1997. Although the member's transfer date changed to a later date, the report in question was inadvertently forwarded for microfiche.

c. The "Periodic Regular" report for the period 16 November 1996 to 15 November 1997 overlaps the report in question, maintaining continuity.

d. The member does not prove the report to be unjust or in error.

3. We recommend removal of the report in question.

[REDACTED]

Head, Performance  
Evaluation Branch