



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

SMC
Docket No: 2701-99
4 November 1999

MA1 [REDACTED] USN
[REDACTED]
[REDACTED]

Dear Petty Officer [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 4 November 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 opinion furnished by the Navy Personnel Command dated 30 August 1999, a copy of which is attached, and your letter dated 14 October 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. Contrary to the advisory opinion, the Board observed that the contested performance evaluation report for 16 November 1990 to 2 September 1991 shows you indicated you did intent to submit a statement. They otherwise substantially concurred with the comments contained in the advisory opinion. They were unable to find your alcohol problem did not affect your performance during the period 1 December 1989 to 15 November 1990, noting the contested report for that period indicates that it did. Therefore, they could not find it was improper that you were not recommended for advancement. They were likewise unable to find that the recommendation of "progress toward" advancement, in the contested report for 16 November 1990 to 2 September 1991, was based on your alcohol problem, noting the report cites other unrelated concerns. 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

1610
 PERS-311
 30 AUG 99

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

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

Subj: MA1, [REDACTED], USN, [REDACTED]

Ref: (a) BUPERSINST 1616.9, EVAL Manual
 (b) BUPERSINST 1616.1A, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his performance reports for the periods 1 December 1989 to 15 November 1990 and 16 November 1990 to 2 September 1991.

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

a. A review of the member's digitized record revealed the reports in question to be on file. The member signed the reports indicating his desire not to submit a statement. Per references (a) and (b), the member has two years from the ending date of the report to submit a statement if desired. A statement to either report was not received by PERS-322 from the member.

b. The first report for the period 1 December 1989 to 15 November 1990 is a "Special" report submitted to document the member's admittance to Level III Alcohol Rehabilitation.

c. The second report for the period of 16 November 1990 to 2 September 1991 is a "Transfer" report submitted upon the member's detachment from the command.

d. The member feels that both reports are unjust due to the reporting senior commenting on his admittance to, and completion of, Level III Alcohol Abuse Treatment.

e. Per reference (a), page 2-17, comments on alcohol abuse are appropriate if the member's alcohol use directly affected his or her performance, conduct or potential. Based on the reporting senior's comments in block 56 of the first report, the member's alcohol use did affect his performance at the command. We feel

Subj: MA [REDACTED], USN [REDACTED]

the reporting senior's comments are appropriate.

f. The second report, block 55, comments on the member's completion of Level III Alcohol Abuse Treatment. We feel that successful completion of any program deserves special recognition and should be noted in a member's performance report.

g. The marks, comments, and recommendation are at the discretion of the reporting senior, and are not routinely open to challenge.

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

3. We recommend retention of both reports as written.

[REDACTED]
D. [REDACTED]
Head, Performance
Evaluation Branch