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

SMC
Docket No: 01239-99
10 February 2000

DK2[redacted] USN
[redacted]

Dear Petty Offic[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 10 February 2000. 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 2 November 1999, a copy of which is 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.

The statements from the commanding officer and the Officer in Charge, Personnel Support Activity Detachment, dated 7 May 1998 and 11 February 1999, respectively, did not persuade the Board that you were evaluated improperly. They found the comment, in your nomination of 10 January 1997 for the Command Advancement Program, that you were "Leading Petty Officer in the Division Surgeon's Office for 9 months" was not inconsistent with the marks you received in the contested evaluation for 16 March 1996 to 15 March 1997. The statement from the officer in charge did not persuade the Board that your reporting senior was unfamiliar with the duties normally expected of a pay clerk, or that he did not take due account of input about your performance from the Personnel Support Detachment. Finally, they noted your recommendation for the Navy and Marine Corps Achievement Medal was for July 1993 to December 1997, while the contested evaluations were for only the portion of that period beginning 16 March 1996.

1239-99

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

1239-99

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

1610
PERS-311
2 NOV 99

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

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

Subj: DK2 [redacted] USN, [redacted]

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his performance reports for the period 16 March 1997 to 15 December 1997 and 16 March 1996 to 15 March 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 reports in question to be on file. The member signed both reports indicating his desire not to submit a statement. Per reference (a), Annex S, paragraph S-8, the member has two years from the ending date to submit a statement if desired. The member's statement for the period ending 15 December 1997 is on file.

b. The member feels that the reports in question do not accurately reflect his performance. The member further alleges that he did not receive mid-term counseling during the periods in question, nor is there any documentation concerning his substandard performance.

c. Both reports represent the judgement and appraisal responsibility of the reporting senior for a specific period of time. They are not required to be consistent with previous or subsequent reports.

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

e. Counseling on performance is mandatory per reference (a), Annex C. Since counseling may be accomplished in several

3) AD

1239-99

Subj: DK[redacted], USN[redacted]

different ways, i.e. written, verbal, etc., documentation of counseling is not required. The member's signature in block 32 of both reports indicates that mid-term counseling was performed. Whether or not the member's weaknesses were discussed during counseling does not invalidate a performance report.

f. The member does not prove the reports to be unjust or in error.

3. We recommend retention of both reports.

[redacted]

Head, Performance
Evaluation Branch