



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 09710-96

21 May 1999

STGI [REDACTED] SR 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 20 May 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 6 August 1997, a copy of which is attached, and your letter of 24 September 1997 with enclosures. Finally, they considered the letter of 14 July 1998 from the Chief of Naval Education and Training to the Secretary of the Navy and the letter of 19 March 1999 from the Deputy Assistant Secretary of the Navy (Personnel Programs) to you, both concerning your complaint of wrongs under Article 138, Uniform Code of Military Justice.

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 Board was unable to find you were the victim of racial discrimination. 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
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

9710-96

IN REPLY REFER TO
1610
Pers-313/32

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL
RECORDS

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

Subj: STG2 (SW) [REDACTED], USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10

Encl: (1) BCNR File

1. Enclosure (1) is returned. We recommend denial of the member's request to change his performance report for the period of 16 March to 31 August 1996.

2. Our comments:

a. During the reporting period the member was in a student status at the command. In order to establish PMA for the member to be eligible to participate in the upcoming advancement cycle, a special report recommending the member for promotion under the new evaluation system had to be prepared.

b. The report is a fully graded report, giving comments on the member's status and reason for the special report as required by reference (a), annex D, para D-9.d. Block 45 indicates member is promotable. The promotion recommendation represents the reporting senior's appraisal of the member's readiness for the duties and responsibilities of the next higher paygrade. It is not required to be consistent with other recommendations.

c. The member questions the assignment of 3.0 marks, feeling his grade averages and performance warranted higher marks. The contents of the report (marks and comments) are at the discretion of the reporting senior; they are not routinely open to challenge.

d. Even though the report may have not been referred to the member for signature in a timely manner, this does not invalidate the report. The member did sign the report on 23 September 1996, indicating he desired to submit a statement to the report. A statement from the member has not been received by Pers-322; however, in accordance with annex S, para S-8 of reference (a), the member has two years from the ending date of the report to submit a statement if he so desires.

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

Subj: STG2 (SW) [REDACTED] USN, [REDACTED]

3. We recommend retention of the report as written.

[REDACTED]

Head, Selection Board
Support Branch