



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

HD:hd
Docket No: 06712-97
8 September 1999

MR. [REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

This is in reference to your letter dated 22 August 1997, seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. Your previous case, docket number 9085-91, was denied on 18 December 1991.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 2 September 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 letter, together with all material submitted in support thereof, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 20 November 1998, a copy of which is attached. The Board also considered your letter dated 22 July 1999 with changes provided by your letter dated 25 July 1999.

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, except they noted you did not allege you had been mistreated by your executive officer. They particularly noted that the new supporting statements you provided did not focus on the specific reporting period concerned; and that the reporting senior involved gave you two subsequent uncontested fitness reports, for 1 March to 31 August 1990 and 1 September 1990 to 25 January 1991. In view of the above, the Board again voted to deny relief. 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

6712-97

1611
NPC-311
20 November 1998

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

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

Subj: LTJG [REDACTED], USN [REDACTED]

Ref: (a) Commander, Destroyer Squadron TWO ltr 1920, Ser 00/295 of 14 May 1991
(b) [REDACTED] USN, ltr 1920, XX07/mm-031 of 28 May 1991
(c) NAVMILPERSCOMINST 1611.1

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests reconsideration of a previous denial to remove his fitness report for the period 30 September 1989 to 28 February 1990.

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

a. A review of the member's headquarters record revealed the report in question to be on file, signed by the member acknowledging the contents of the report and indicating his desire to make a statement. The member's statement dated 12 March 1990 and first endorsement were found suitable for file and filed next to the report.

b. LT [REDACTED] has provided letters of support from three junior officers who served with him during the reporting period. These officers may have observed events that occurred, but they were not responsible for [REDACTED]'s work or evaluating his performance. While their comments add insight and reflect favorably on the member's performance, it does not show That his evaluation was invalid.

c. [REDACTED] claims that he was mistreated by his Commanding Officer, Executive Officer, and Department Head. The Commodore did comment in reference (a), that the member was unjustly and insensitivity treated by his department head and the commanding officer. The commanding officer addressed these allegations in reference (b) stating he knew of no mistreatment and his report remains valid. No further comments from the Commodore were provided.

d. Paragraph 5-20.c. of reference (c) the instruction in effect at the time of the fitness report, states "reporting seniors are encouraged to show reports and provide counseling to all officers, but are required to do so for officers in the grade of Chief Warrant Officer (CWO-2) and Ensign

through Lieutenant. Personal counseling must be a frank and meaningful discussion and explanation of the report and must be conducted with the purpose of the officer achieving full understanding of his/her performance". The Commanding Officer states that he was counseled on numerous occasions. Counseling may occur in different ways, but written documentation of counseling was not required. The member does not prove that he was not counseled.

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

4. Recommendation:

(a) Recommendation  word remains unchanged.

(b) Recommend the member's petition be forwarded to the Director, Training and Education Division (NPC 015) for comments on the member's request to implement a course on Emotional Discipline for Department Heads and to the Head, Health and Physical Fitness Branch (NPC 601) for comments on the members concern that the "Healthy Cuisine" program has not been implemented.



Head, Performance
Evaluation Branch