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Subj: Summary Dismissal from USNA, Class of 1966, and Follow Up Acts of Fraud to Cover Up Scandal

Senator Amy Klobuchar, (D) Minnesota
Senator Al Franken, (D) Minnesota
Agent Michael Ryan, FBI
Editor, Washington Post

Time to take the gloves off after 50 unsuccessful years of trying to correct my personnel records after being summarily dismissed to cover up a scandal at the U.S. Naval Academy. My recent invite to the 50th reunion resulted in ridicule from some of the friends of the “Bad Boys” who set me up to remove me from the Academy as a witness to a potentially major scandal.

I enlisted in the U.S. Navy the day after graduation in 1961 from Pipestone HS, Pipestone, Minnesota in honor of one of my brothers who had enlisted before me and was returned from Turkey in a pine box with highest honors signed by the Secretary of the Air Force – for dying of natural causes.

The objective of my “mission” is to highlight the political corruption coming out of the Navy and the Bureau for Correction of Naval Records (BCNR). My experience is that the BCNR is a political animal which is ultimately controlled by the Secretary of the Navy, most often an Academy graduate. The priority for Academy grads is to protect the reputation of the Academy over the rights of the individuals – which is much easier with an enlisted appointee than with a politically appointed midshipman. Loyalty is everything after graduation.

I was one of the 5% of the Academy appointments coming out of the enlisted ranks, appointed by the Secretary of the Navy. My dismissal required SecNav approval.

Since I did not commit an honor offense to go before the midshipman honor committee and did not commit a conduct offense the Academy had to come up with an alternative set of facts to remove me from the Academy – including removing the Commandant of Midshipmen, Capt. Kinney, from the process even though he was officially in charge of the honor committees and the conduct system. They replaced my outstanding record with two blatantly fraudulent performance evaluations and then forced me to sign a confession that I was resigning for the “good of the service” and “to escape the consequences of my misconduct”. These documents, done in secret, established an alternate set of facts that I was a homosexual – a blatantly false set of documents sent up to SecNav to justify my summary dismissal. On filing an FOIA to recover my forced confession I was informed that my entire file had been checked out, in violation of procedures, and the confession had been destroyed in violation of the law.

The attached documents, taken from 1,000 pages of testimony that went up to the Appellate Courts in DC detail the fraud. It is my contention that since the enlisted members appointed to the Academy do most of the fighting and dying in military conflicts that we are, at a minimum, entitled to equal treatment under the laws.

And I do have reason to believe that the Navy is monitoring my communications.

Sincerely,

Kenneth L. LeBrun

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Thursday, September 14, 2017

Department of the Navy
Board for Correction of Naval Records
701 South Courthouse Rd, Ste 1001
Arlington, VA 22204-2490

Re: Rehearing on Docket #4132-93

Gentlemen,

I am requesting a rehearing because various departments within the Navy submitted blatantly false information, some under oath, and/or ignored critical evidence supporting my original request.

There are two systems dealing with misconduct at the Academy – the midshipman honor committee and the conduct system. The Academy acknowledges bypassing the honor system in violation of 100 plus years of policy and procedures billing the honor code as the foundation of the U.S. Naval Academy, claiming they opted to pursue the conduct system instead. There is no credible evidence to support the Academy's contention that it processed my summary dismissal through the conduct system. There is credible evidence, however, that the Academy utilized an alternative method of dismissal – falsifying a homosexual report. The logic behind the decision to bypass the conduct system is that the Academy was facing a major scandal involving multiple “Bad Boys” (see affidavit from Ed Ohlert company honor rep for the midshipman honor committee) with appointments from powerful members of Congress up through the Office of the President. I came out of the enlisted ranks with no political connections – just an outstanding record.

The Academy is subject to the rules of the UCMJ and the conduct code requires a written conduct report stating the offense prior to a hearing. The conduct report is logged into various documents and immediately exposed to the Brigade of Midshipmen – normally within a 24 to 48-hour period. Since I did not commit an offense for either the honor or conduct systems the Superintendent was under tremendous pressure from senior Academy grads and powerful politicians to get creative starting with bypassing the honor and conduct systems. That also required bypassing the Commandant of Midshipmen who was a firm believer in the midshipman honor code and had completed a major and detailed update of the midshipman honor code several months prior to my summary dismissal.

The most blatant acts of fraud in my summary dismissal dealt with the documents sent up to SecNav to support my summary dismissal. There were three documents sent up to SecNav according to former Commandant Kinney who should have been in charge of the honor and conduct systems. Two were performance evaluations supposedly signed by my company officer, Lt. Truxton Umsted, which were an extreme deviation from my official Navy records for the 5 years prior to my new “Bad Boy” roommate's decision to go AWOL for a young lady the night before the start of Christmas leave. The gross misrepresentations in those documents amounted to a blatant act of fraud. In addition, the reference to “no girl” was also a fraudulent statement suggesting that I was a homosexual despite multiple introductions to Lt. Umsted of a young lady that I had been pinned to during my time as his company commander. Photo attached.

The opposite extreme: I served as class president and chairman of the midshipman honor committee my second-class year, I was selected for fall set company commander of the 33rd company my first-class year because of the highest performance rankings in my company, I was one month away from brigade boxing finals which may have resulted in the best overall boxing record in the history of the academy in addition to the victories in my boxing coaching records. I shot expert with rifle and pistol and I had elected to go Marine Corp on graduation. Coach Emerson Smith had asked me to support his request to retain me as his assistant boxing coach upon graduation and I had agreed. And, I was selected along with classmate David Mosier to train the incoming plebe class (plebe detail) because of our top rankings in the company.

Aside from the fact that Lt. Umsted was unqualified to make the psychological evaluations in the performance evaluations, I received an award as an outstanding volunteer social worker for work with minors in need of supervision, assigned to the courts, while in law school. In the course of working with a team of psychologists I was also somewhat compensated with a multitude of free psychological profile exams which directly contradict Lt. Umsted's evaluations. **I would be happy to compare such exams with anybody on the Board, at my expense.** Growing up in a rigid Catholic family, I do not bend to corruption - which cost me my career at USNA and which has been costly throughout my life in the business community. **I repeat, I do not bend to corruption.**

It is virtually impossible for an enlisted person with the personality traits described in the two performance evaluations to pass the vetting process for an appointment to the Academy. And in the unlikely event that such an individual did pass the vetting process he would most likely be removed during the rigorous plebe year indoctrination process. And, the Academy required regular performance evaluations from the company officer, upper class and classmates. I repeatedly ranked at the top of my company – the opposite extreme of the two performance evaluations from Lt. Umsted - up until my “Bad Boy” roommate went AWOL with the AWOL being the only intervening factor for the two extremes.

The third document sent up to SecNav to approve my dismissal was a resignation letter that I was forced to sign under threat of a court martial after the Superintendent tore up my statement of events. That resignation document included statements that I was resigning “to escape the consequences of my misconduct” with no specifics that I recall and “for the good of the service” which I learned many years later, on appeal, when combined with the “no girl” statement, was a reference to homosexuality. Since I had not committed either an honor offense or a conduct offense, the third option to remove me as a witness to a major scandal for the Academy was the homosexual route discussed further in the Introduction in the bound copy. The two unsigned memos from the Superintendent and Commandant were **not** sent up to SecNav according to comments in one of the three communications from the former Commandant, Capt. Kinney. For the record, nobody sends up unsigned memos to SecNav, particularly ones announcing my dismissal dated before any meeting or “hearing” with senior officers. So, there is no evidence that SecNav ever saw any statement of the false charges but, rather, documents that clearly implied that I was being “outed” as a homosexual, discussed at length in the attached documents

My resignation, the third document to go up to SecNav, was reported to have been checked out from my personnel records, in violation of the law, and destroyed, in violation of the law. Supporting documents stating the violations from respective agencies are included in the bound copy. The two performance evaluations did not include any statement of charges and neither did the confession, to the best of my recollection, but rather supported the fraudulent performance evaluations. So, logically, it had to be destroyed.

Commandant Kinney was supposed to be in charge of both the honor code and the conduct system. He was a strong supporter of the midshipman honor code, attached, as witnessed in the attached detailed revisions he made to the honor code several months before my summary dismissal. Based on my

experience working with Kinney during my time as chairman of the midshipman honor committee for my class, I have every reason to believe that Kinney was bypassed because of his objections to the flagrant violation of procedures for both the honor and conduct systems. I also note that the affidavit from former Cdr. Barlow who reported to Kinney, included, states that falsifying a muster report was not appropriate for the midshipman honor code. That directly contradicts the attached copy of the honor code, pages 3 and 4, in effect at the time of my dismissal which states falsifying a muster report as a classic example of an honor offense to be tried before the midshipmen honor committee. **Cdr. Barlow's affidavit was an act of perjury.** There is also strong evidence that Kinney's first two communications have a major conflict with the third communication, a signed affidavit. Those conflicts support my affidavits and Kinney's admission that we never met privately on the matter as stated in his final boiler plate affidavit. The included affidavit from former midshipman Robert Johnson (an attorney at the time of submission) rips that affidavit to shreds suggesting that Kinney was not the author of that document – just one more in a long string of fraudulent acts to cover up a major Academy scandal.

The midshipman honor rep for our company, Ed Ohlert, submitted an affidavit that he was monitoring the activity of several "Bad Boys" in our company who had a penchant for violating the rules and that I was not a part of that group. The BCNR solicited responses from members of that group, also friends of my Bad Boy roommate Dyer. They responded in support of their friend, Dyer, with handwritten notes that were not submitted in affidavit form as required by law. I made multiple demands that the coordinated statements submitted to the BCNR in support of Dyer be in affidavit form to comply with the law. The BCNR repeatedly refused to comply and eventually gave those statements greater weight than my sworn statements. The refusal to comply with the law suggests that the BCNR understood Dyer and his Bad Boy friends were lying.

My "Bad Boy" roommate went AWOL the night before the start of a 2-week Christmas leave on a night when there was no liberty. Most of those who made it to Christmas leave knew that it was coasting downhill to graduation. It was a time to celebrate. Unfortunately, past celebrations meant big hangovers for many midshipmen driving long distances in a rush to get home. That resulted in several fatalities in the years before our class and resulted in ending liberty the night before the start of Christmas leave. Releasing the first-class (seniors) for a night of revelry under those circumstances could almost certainly destroy a career for the Superintendent. So, no liberty meant two muster reports for the evening – one after the evening meal and one at midnight. Nobody in his right mind goes AWOL the night before Christmas. So, when Dyer didn't show after the evening meal and one of his Bad Boy friends vouched for his presence, I signed him in. When he didn't show for midnight muster I was responsible for reporting him absent. Classmate Gadberry did the actual muster and reported him absent at my direction. Gadberry submitted a supporting affidavit.

There is a detailed explanation in the Introduction explaining AWOL versus AOL and how the Academy attempted to circumvent the missing conduct report _ which was never written - violating the UCMJ requirement for a written statement of charges before any hearing. A whistleblower blew the lid off when he sent out an unredacted copy of a fraudulent and handwritten Class A log intended to provide evidence that a conduct report had been processed. The attached submission will further elaborate on that issue.

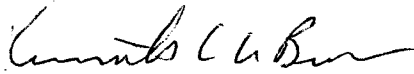
There were many other acts of fraud to cover up the scandal as noted in the Introduction, but this last act should be sufficient to give you a flavor for the lack of professionalism and ethics that went into my summary dismissal and my original appeal to the BCNR.

One member of the three-member Board was an Academy grad and like all Academy grads who were indoctrinated in the honor code and especially those who served on an honor committee, bypassing the honor committee for an alleged violation of the honor code was unacceptable. He voted in favor of full relief as requested. The other two Board members stated that I got a free education coming out of the

fleet and that I should stop whining – a unique justification for a summary dismissal. One of the Board members identified as Mr. “Z” in the final BCNR report engaged in unethical activity in an attempt to discredit an affidavit from classmate Gadberry who supported my affidavits challenging the Academy’s version of events surrounding Dyer’s AWOL. Mr. “Z” made a surprise phone call to Gadberry, made a false statement to Gadberry, and then asked a question based on that false statement – which admittedly confused Gadberry. We succeeded in removing Mr. “Z” from the 3-member panel on ethical grounds but note that the BCNR used the information he claimed to have collected from Gadberry.

I can also clear up the time of my departure from the Academy. There are supporting affidavits detailing my mysterious disappearance over the 4-day semester break at the end of January 1966. I was pulled into a surprise meeting at the end of the semester – 7 weeks after the alleged offense. Since I received credit for all of my courses for the semester, I had to have been present up to the end of January of 1966 to take the exams. And I was gone when the Brigade returned 4 days later. If I had been charged with a conduct offense any time during the 7-week period I could have been removed from Bancroft Hall to a separate location but that would have alerted my company and the Brigade to a major offense. That did not happen. What did happen is that the Superintendent used the 7 weeks from the time of the alleged offense to the time of my summary dismissal to get approval in secret for my dismissal in advance of the surprise meeting - which was a phony hearing. He put on a show for the junior officers in my surprise meeting at the end of the semester, forced my resignation immediately after, and I was gone before the Brigade came back.

Sincerely,



Kenneth L. LeBrun

- Attachments: 1) Copy of the midshipmen honor code in effect at the time of my summary dismissal
2) Bound copy of original submission to the BCNR

*Signed before me this
14th day of September 2017*

MELANIE L. CYGANOWSKI
NOTARY PUBLIC-STATE OF NEW YORK
No. 02CY6088613
Qualified In Suffolk County
My Commission Expires 03-10-2019

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My invitation to attend the 50th reunion at USNA went well except for the attacks from the friends of the “Bad Boys” who set me up to take the fall for their scandal. This is a direct response to their actions.

The following documents are a summary of the 1,000 pages of testimony that went up to the Federal Appellate Court in DC, the result of 50 years of fighting to correct my records from a summary dismissal from the US Naval Academy that was intended to cover up a scandal.

The Academy and the Bureau for Correction of Naval Records engaged in fraudulent activities to coverup a scandal to protect the reputation of the Academy - and the Courts buried their heads in the sand.

I have no illusions of justice in this matter. But rubbing their noses in the mess they made of our military justice system may discourage such activities in the future, in particular for those of us who came out of the enlisted ranks without the political power to guarantee equal justice under the law.

Our men and women in the enlisted ranks who do most of the fighting and dying in military conflicts are entitled to equal treatment.

And finally, I have an attitude problem. The Courts can’t do any worse to me than the the Viet Cong could have done to me as a Marine in VietNam. I will take a bullet in the back of the head before I will bend to corruption. And I have a paid the price for that attitude since the Academy.

INTRODUCTION: Kenneth L. LeBrun's Summary dismissal from USNA Class of 1966, 33rd Company

I was invited to attend the 50th reunion of my 1966 class reunion at the US Naval Academy, despite my summary dismissal in my first class (senior year) to cover up a major scandal involving several of my "Bad Boy" classmates.

I was one of the 5% of the midshipman appointed from the enlisted ranks through the Secretary of the Navy. The remaining 95% were political appointees from Congress up through to the President making the Academy one of the most powerful political institutions in the country. As a member of the class of midshipman coming out of the enlisted ranks, a class that does most of the fighting and dying in our military conflicts, the least we can expect is to get equal and fair treatment under the laws – which I was denied in my summary dismissal.

I was born and raised in Pipestone, Minnesota, one member of a family of vets. One of my uncles fought through the Pacific in WWII and didn't talk about it. Another fought through the European theater and was shot by a German sniper in the Battle of the Bulge. I was the third of three brothers in my family to enlist, with the second coming back in a pine box from Turkey after 18 months in the Air Force - with the highest peace time award signed by the Secretary of the Air Force in 1961. I enlisted in the Navy the day after I graduated from high school in June of 1961 in honor of my brother and, like many enlistees, as a way out of the poverty we knew.

The path to my summary dismissal was messy. The Superintendent, Admiral Draper Kauffman, was a junior admiral and had to have been facing a major scandal from a group of "Bad Boys" to violate all the fundamental rules and regulations associated with my summary dismissal. The only logical explanation for the flagrant violations had to have been the pressure from the politicians who appointed the "Bad Boys" involved in the scandal and from former Academy graduates who outranked the Superintendent and were obsessed with avoiding a scandal to protect the reputation of the Academy. If I had been guilty of the fraudulent charges it would have been a 5-minute process through either the midshipman honor committee or the conduct system instead of an unheard of 7-week delay from event to dismissal filled with a multitude of fraudulent acts and documents along the way.

If the Superintendent had done any of the above to one of the midshipmen appointed by a politician it likely would have led to a congressional investigation. With me coming out of the enlisted ranks, the Superintendent only had to convince the Secretary of the Navy (SecNav) that I had to be dismissed. Sending up two totally fraudulent performance evaluations and a fraudulent, forced confession did the trick.

I had an outstanding record documented in the attached press release, the year book and Commandant Kinney's communications up to the date of the AWOL of my new roommate, Bruce Dyer. Immediately following his AWOL on December 18, 1965 (the evening before the start of a 2-week leave), I became a total loser and homosexual who had to be removed for the good of the service. I was denied access to any of the documents involved in my summary dismissal except for my forced confession, but I was denied a copy of the forced confession. The Academy and the BCNR were unable to produce any documents with my signature or

evidence that I had seen any of the documents drafted with the fraudulent charges.

Our 33rd company at the Academy was described by our company honor representative, Ed Ohlert, in an affidavit attached, as having a group of individuals characterized as “Bad Boys” who pushed the limits under the conduct and honor codes. He stated that he had been actively pursuing their activities and was able to remove one of them involved in the scandal for an honor offense several months after my dismissal. Ohlert also stated in his affidavit that I was NOT one of the group of “Bad Boys”. Not surprisingly, Dyer’s friends lost all understanding of the honor code, the conduct system, the UCMJ, the chain of command and a host of Academy and military rules and regulations in their aggressive defense of their friend both at the time of Dyer’s AWOL and at the time of my appeal to the BCNR (Bureau for Correction of Naval Records) and continuing to this day.

As I left the Academy for the two-week Christmas leave I had no clue that I was sailing into the perfect storm. In addition to the powerhouse lineup of Daddies and sponsors who had two weeks to address a serious problem, I was facing one of the most politically powerful institutions in the U.S. And on appeal I was faced with John Dalton, Class of 1964 and Secretary of the Navy (SecNav), who was a major fundraiser for the Democrats and under investigation by the FBI for bankrupting Seguin Savings Association (an S&L) in 1988. Newspaper reports put the cost to taxpayers at \$100 million and federal regulators cited him for gross negligence according to the LA Times. He was also cited for collecting illegal fees in the amount of \$750,000 which he was forced to disgorge. Dalton was appointed to SecNav without disclosure to the full senate of the investigation. The BCNR reported to SecNav and it is highly unlikely that the gross misrepresentation of facts and law in my appeal could have happened without the approval of SecNav – just following orders to protect their careers. And it is possible that there was enough “dirt” on Dalton to influence his decisions.

After serving as the fall set midshipman company commander I was assigned a new roommate, Bruce Dyer, prior to the Christmas break, December 1965. He proceeded to go AWOL 12 hours before the start of a 2-week Christmas leave period. As a former class president and chairman of the honor committee I was responsible for reporting him absent for the second of two musters, unaware that he had an agreement with several of his “Bad Boy” friends to cover for him and they screwed it up – a dismissible event under the midshipman honor code for all of them. It would take a real idiot to go AWOL without a plan to cover for the absence and it was very clear from testimony of Dyer’s Bad Boy friends that I was not a part of any plan to cover for Dyer’s AWOL. The Academy in a blatant act of fraud switched the policy on liberty from AWOL to AOL for my appeal and rejected multiple FOIAs for a copy of the policy on liberty for the evening when Dyer went AWOL explained further in this document.

Our Bad Boys knew that they had a problem and apparently spent the 2-week Christmas leave talking to their Daddies. The plan that evolved was to silence me until semester break while processing the paperwork for SecNav, isolate me during the semester break from the Brigade and any officers that I could trust and then scare the hell out of me to force a resignation. Planning the summary dismissal was a bit on the complex side and all done behind closed doors.

The apparent challenge for Supt. Kauffman was how to remove a midshipman with an outstanding record who had not committed an honor or conduct offense to protect the careers of three midshipmen who had committed an honor offense by agreeing to cover for Dyer's AWOL.

So, Supt. Kauffman's mission was to find a way around the honor code, the conduct system and the chain of command to justify removing me from the Brigade of Midshipmen as quietly as possible. That meant avoiding 100 plus years of the midshipmen honor code billed as the foundation of USNA. It meant avoiding the conduct code and the UCMJ requirements for a written report known as a conduct report at the Academy. It meant bypassing the chain of command sidelining the Commandant of Midshipmen, Capt. Kinney, who was responsible for administering the midshipman honor code and the conduct code. In addition to those deceptions, Kauffman was ultimately responsible for a series of blatantly fraudulent documents in support of my summary dismissal.

Seven weeks after the alleged offense, at the end of January 1966, after completing my semester exams and receiving credit for my courses, I received a notice to meet my company officer, Umsted, in a designated room. Supt. Kauffman, Capt. Kinney, Cdr. Donovan (Battalion Commander), and Lt Umsted were in the room. By the time I showed for the meeting the Academy had virtually emptied for the semester break. Superintendent Kauffman asked me one significant question "did you sign Dyer present for the muster?". Having signed him present for the early evening muster I said "yes" based on comments from Peter Abell that Dyer had been present for the early evening muster. That ended the meeting. The unsigned memos from Kauffman and Kinney stated that I had erased Dyer's name from the muster board after he had been reported absent by classmate Gadberry. Those was two totally different allegations but facts didn't matter once I was gone with no copies of any documentation.

The surprise meeting with the four officers was followed by a private meeting with Kauffman in which he told me that he did not know what happened but that because of my outstanding record he was going to make an example out of me and that unless I resigned he would destroy me. I would never be able to get into another college or get a job. It was clear he was referring to a dishonorable discharge.

The alleged offense if legitimate would normally have taken 5 minutes in an honor committee hearing or a conduct offense that would have been initiated by my company officer. These acts and documents were simultaneous with a press release that I was selected for the highest honors in the company based on peer and company officer evaluations over a 4-year period of intense challenges and interactions.

Twenty-five years later when I started an investigation to clear my records I learned of the confusing allegations that I had confessed to signing Dyer as present for the midnight muster in the surprise meeting when he was in fact AWOL and, in conflict, that I had been charged with erasing his name from the muster board in unsigned documents from Kauffman and Kinney. According to Academy records Dyer was late returning from liberty - on a night when there was no liberty. On a night with liberty there was only a midnight muster and with no liberty there was an early evening and a midnight muster. The Academy blocked multiple FOIAs for the

records on liberty for that evening. You could get a copy of the desert menu for that evening with an FOIA but not for a document dealing with a potential life and death situation. But given five years of “officer boot camp” (including NAPS for us enlisted appointees), Christmas leave could be compared to reaching the summit of a mountain knowing the toughest part was over and it was a coast downhill to the finish line. For some it was party time and releasing the upper class to party the night before the start of Christmas leave had proven fatal in the past for several midshipmen driving long distances either drunk or with a hangover in the rush to get home – some like me driving half way across the country to Pipestone, Minnesota. Letting the upper class out to party the night before the start of Christmas leave probably would have been the quickest way for a Superintendent to end his career – given many of those midshipmen had parents and grand-parents who outranked the Superintendent.

The Academy is governed by the Uniform Code of Military Justice which clearly outlines procedures for processing a dismissal from the military. One of the basic rules is that any charge is to be presented in writing and the defendant must be given the opportunity to receive counsel and to respond in the matter. The writing at the Academy comes in the form of a conduct report which requires a written signature of the defendant. In the case of a dismissal, the copy of the conduct report is to be forwarded to the Personnel Record Center within three years. No such document was ever presented to me. There is no record of such a document. And there is no record of me acknowledging receipt of any documents, including the confession that I was forced to sign that had no relationship to the charges that I saw for the first time twenty-five years after my summary dismissal.

A written conduct offense following normal procedures would have alerted me to the fraudulent charges well in advance of my surprise hearing over semester break and would have alerted the officers and midshipmen at the Academy of any charges against me. If I had been able to speak to Capt. Rubino (head of the Athletic Dept.) or Emerson Smith before my summary dismissal they later told me that they would have gone to bat for me and could have revealed the true facts in my summary dismissal, but the damage was already done.

The Academy did release a hand-written Class “A” log (most serious conduct offense at the Academy) which showed a history of logged offenses and a copy of Dyer’s performance jacket which shows AOL as of Thursday, January 13, 1966. Dyer was clearly AWOL, not AOL, on Dec 18, 1965. AWOL is Absent Without Leave and involves leaving one’s post without permission. AOL is Absent Over Leave or Liberty which is returning late from an approved leave or liberty. In this case Dyer was AWOL, leaving the Academy for a date with a young lady on a night, Dec 18, 1965, when there absolutely was no liberty. Dyer’s performance jacket showed 75 demerits for an AOL on Thursday, January 13, 1966 which made no sense since there was no record of a mid-week liberty for that date in Academy files. The names of all the offenders in the Class “A” log were redacted except for my name which showed a Class “A” offense logged on Dec 18, 1965 which was the day of the original alleged offense. Somebody in the Academy with a conscience, aware of the hand-written log and the redacting, sent me a secret copy that was not redacted. That document showed that somebody had rewritten the log and replaced Dyer’s Class “A” for being either AOL or AWOL with my name as the only evidence

that I had been processed through the system with a statement of written charges. If the Academy's version of events was true, there should have been two entries into the Class "A" log – one each for me and Dyer. Since I was never presented with a conduct report which was a prerequisite to an entry into the Class "A" log, there was only one entry which had to have been for Dyer. They simply rewrote the page in the log substituting my name for Dyer's and submitted the fraudulent document as evidence of a conduct report.

It was just politics and Kauffman, a WWII war hero, was just following orders.

There were three documents sent up to SecNav, to justify my dismissal according to one of the three communications with Capt. Kinney during my appeal. Two of the documents, performance evaluations, were gross misrepresentations of my record at the Academy and the third, the forced confession, was destroyed in violation of the law – see attached official records. The apparent reason for the destruction was that the confession stated that I was resigning for the good of the service – language commonly found when outing homosexuals in 1966 – and compatible with the fraudulent "no girl" statement in the performance evaluations. There was no resemblance to the unsigned memos allegedly from Kauffman and Kinney confirming my dismissal dated prior to my surprise hearing.

The two performance evaluations reportedly signed by my Company Officer, Truxton Umsted, suggested I was a total loser with serious mental problems and "no girl". A picture of "no girl" who I was pinned to and who my company officer, Truxton Umsted, had met multiple times during my appointment as his midshipman company commander are attached as PDFs. In addition to election as class president and chairman of the honor committee and appointment as midshipman company commander I was two months away from setting an Academy record in intramural and varsity boxing and coaching intramural boxing. The boxing coach, Emerson Smith, had asked me to support his request for an assignment as assistant boxing coach at the Academy upon graduation.

As for the mental issues, as a volunteer social worker while in law school, I was awarded the Outstanding Volunteer Social Worker of the Year award in 1977 for success in working with Minors in Need of Supervision, assigned to the courts. While working with a team of psychologists I was able to take a wide range of psych exams which showed a personality diametrically opposed to Umsted's allegations, if he even wrote those performance evaluations. My history of outstanding performance evaluations got lost somewhere during my summary dismissal and again in my appeal to the BCNR. In short, Umsted's performance evaluations were a gross misrepresentation of my track record at USNA. They were flagrant acts of fraud, directly contradicting the first draft of Commandant Kinney's affidavit. They were totally confusing to Kinney, who was in charge of the conduct and honor systems and was supposed to have reviewed and approved the fraudulent performance evaluations – if he had been involved and the performance evaluations had been legit.

The third document, my forced resignation, was supposed to be retained by law in my personnel files. But SecNav checked out my personnel file - in violation of procedures requiring that only copies be sent out – and destroyed the confession according to official records stated later in this

document. **So, bypassing the honor code and the conduct system to avoid a public scandal left open the last option which was to convince SecNav that they had outed a homosexual with serious mental problems – but left behind a paper trail of fraudulent conduct on the part of several officers and classmates.**

It was raw politics from start to finish. I have challenged the honesty of the Academy officers who forced my summary dismissal, the falsity of the statements made by the “Bad Boys” in their defense, the corruption of documents under control of the BCNR, and the Courts burying their heads in the sand. I have presented evidence to the FBI knowing that lying to the FBI is a felony. I have heard nothing from them. I have publicly accused the “Bad Boys” of lying at every step of the way. They set me up to take the heat for their crime. They have the right to file a libel suit. They have done nothing. I have accused the BCNR of falsifying documents and violating federal regulations. They have done nothing. And I have stated publicly that when the Courts support corruption in our military justice system it poses a threat to the lives of our men and women in uniform – most likely those who do most of the fighting and dying – those are the enlisted men and women in our military. The individuals mentioned above have one thing in common. They are fully aware that any legal action that ends up in front of a jury would likely result in exposing one of the worst scandals in the Academy’s history.

The Academy presented fraudulent and unsigned memos from the Superintendent and the Commandant to the BCNR stating my dismissal was approved and dated prior to my surprise hearing and falsely stating that I had altered a muster board to cover my new roommate’s AWOL.

In short, the performance evaluations sent up to SecNav were a gross misrepresentation of my performance record at the Academy, a blatant act of fraud. And the “no girl” statement was another blatant act of fraud. These documents along with a fraudulent, forced confession were the total of documents sent to SecNav soliciting his approval for my dismissal. There was no reference whatsoever in these documents to my actual record at the Academy or a factual representation of what occurred. My personnel file was checked out in violation of the law and the forced confession destroyed according to Navy officials in violation of the law. See attached records.

The end result was my summary dismissal: Supt. Kauffman had to bypass the midshipmen honor code because I had NOT committed an honor offense, he had to bypass the conduct system because I had NOT committed a conduct offense, he violated the Uniform Code of Military Justice addressing procedures for a conduct offense, he violated the chain of command removing the Commandant responsible for implementing the honor and conduct systems, he was responsible for falsifying performance evaluations suggesting I was a loser with mental problems and a homosexual. The multiple acts of fraud were simultaneous with a press release stating that I had an outstanding record which had been approved by the Commandant simultaneous with my summary dismissal – a copy of the press release attached in PDF format. My confession was destroyed in violation of the law because it did not support the unsigned memos from Kauffman and Kinney.

Bob Spooner was class president and chairman of the honor committee when he learned of my surprise disappearance over semester break. On inquiry, he was given a direct order by Cdr. Barlow, assistant to Commandant Kinney, not to get involved. Barlow later submitted a fraudulent statement under oath during my appeal stating that the allegations of falsifying a muster report were not covered by the honor code thereby justifying processing any allegations through the conduct system. Page 3 of the attached honor code updated by Commandant Kinney, Barlow's commanding officer, six months before the alleged offense states falsifying a muster report as a classic example of an offense to be tried before the midshipman honor committee. Barlow's affidavit was a blatant act of perjury which the BCNR and courts refused to address. Everybody who served on the midshipman honor committee up to and including the one Academy grad on the three-member BCNR board disagreed with treating an alleged falsification of a muster board as a conduct offense instead of an honor offense to be tried before the midshipman honor committee.

The coup for the BCNR in rejecting my appeal was a boiler plate affidavit supposedly signed by Commandant Kinney addressed in further detail later in this document. The final affidavit produced by the BCNR was a total reversal of the facts, identical to the extreme reversal addressing my performance record and the performance evaluations sent up to SecNav. Got to give the Navy credit for consistency. In reviewing Kinney's final affidavit, classmates Robert Johnson who had served on the honor committee at the Academy and was a licensed California lawyer at the time of my appeal, submitted a blistering affidavit suggesting that the final affidavit was a fraudulent document. See attached affidavit.

My attorneys received two communications from Kinney during my appeal:

The first was a handwritten note from Kinney to my attorney which said, in brief, that he remembered me favorably (*I met with him frequently during my term as class president and chairman of the honor committee, he approved the attached press release when I was selected for midshipman company commander and I had a record setting career in boxing, a popular sport at the Academy*) but that he could not explain the dates on the unsigned documents detailing my recommended dismissal before the surprise hearing during the semester break. That was easy to explain since Capt. Kinney sat this one out even though he was officially in charge of the conduct and honor systems and Kauffman had prepared documents for my dismissal before my surprise hearing.

Since Kinney was "benched" and not a player in my summary dismissal, the Superintendent claimed to have switched to a conduct offense in violation of 100 plus years of practice and procedures for the midshipman honor code and then ignored all the rules and regulations for a conduct offense, apparently confident that the threats would avoid the possibility of any future appeals. The Academy is subject to the UCMJ with specific procedures. Threatening to destroy somebody if they don't resign as a sole reason for a resignation does not fall within the concept of the UCMJ.

The second communication with Kinney was a draft of his affidavit that his attorney mailed to my attorney and the substance of which was presented to the BCNR. He reviewed my

outstanding record but noted that he was confused by the performance evaluations from Lt. Umsted. Again, if he had been in charge of my summary dismissal he would not have been confused because the performance evaluations would have to have been processed through his office. There would not have been any performance evaluation of the nature that is supposedly written by Umsted. The performance evaluations from Umsted directly contradict Kinney's draft affidavit with the details of my outstanding performance at USNA which can still be verified through the year books and my press release announcing my selection as midshipman company commander (attached).

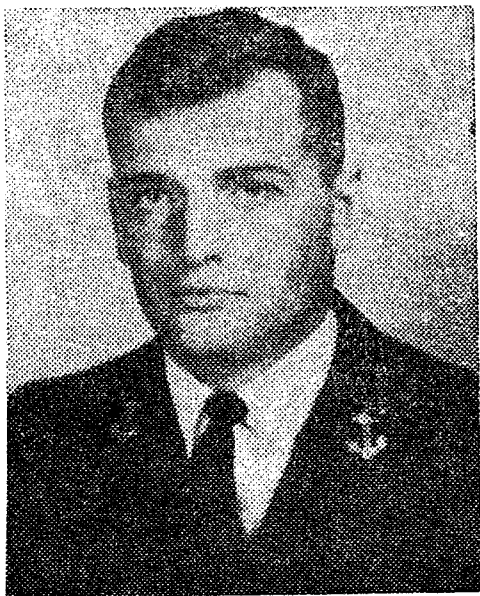
The third communication was Kinney's final affidavit to the BCNR which was a total reversal of everything in the first two communications. It was pure boiler plate in which Kinney states that he had no clue who I was, that he handled my dismissal as a standard protocol and he essentially affirmed the fraudulent performance evaluations. The final affidavit was a blatant misrepresentation of the facts and of my record at the Academy. It was a flagrant act of fraud, knowingly perpetuated by the BCNR, in that it effectively dismissed any reference to my record and replaced it with the fraudulent performance evaluations. In reviewing the three communications, I doubt seriously that the final affidavit was actually written and signed by Kinney.

Summarizing Kinney's involvement after the surprise meeting with the four officers: (1) I have repeatedly stated that I never met privately with Kinney, (2) Kinney acknowledged that he does not recall meeting privately with me, (3) Kinney was confused by the many dates confirming my dismissal that made no sense because they preceded the surprise hearing in which he was a participant, (4) Kinney could not explain the unusual 7-week delay from the alleged offense until the resignation, and (5) Kinney was confused by the fraudulent performance evaluations supposedly signed by Umsted. Those performance evaluations had to have been approved by Kinney in the normal course of business, but obviously were not.

The three-member panel on the BCNR was comprised of one Academy grad who voted to support my appeal in full and two draft dodgers who summarized my appeal as "you got a free education, quit whining". It was a stacked deck all the way.

In summary of the appeal, I presented a dozen affidavits from classmates in my company, the class president and chairman of the honor committee and the midshipman brigade commander all supporting my submission to the BCNR. The BCNR produced hand written documents from the Bad Boys who had set me up that were not submitted in affidavit form. The BCNR refused in writing to comply with the law requiring sworn statements before the BCNR. Add to that the perjured statement from Barlow and the highly questionable affidavit that the BCNR produced from Kinney and we have a rigged system. The one Academy grad on the three-member Board agreed in full with my presentation. The two draft dodgers on the Board concluded that I had received a free education and should stop whining. **They fail to understand that corrupting our military justice system is ultimately a threat to the lives of our men and women in uniform those of us who served in the enlisted ranks and who do most of the fighting and dying.**

And as a final comment in this section, Superintendent Kauffman threatened to destroy me if I did not sign the fraudulent confession. I have reason to believe that some of his successors in the “dirty tricks department” of the Navy have taken on the responsibility of following through on those threats, mostly in the form of hacking my computers and “playing” with some of the data to destroy my reputation. That is, unfortunately, why publication is the only way to fight back.



Kenneth L. LeBrun

Pipestone Midshipman Company Commander At Naval Academy

Annapolis, Md. (FHTNC)—Midshipman First Class Kenneth L. LeBrun, 21, son of Mr. and Mrs. Olai Lickness of 624 Eighth Ave. S.W., Pipestone, Minn., has been selected by the Superintendent of the U.S. Naval Academy as a Midshipman Lieutenant, to serve as the Company Commander of the 33rd Company for the Fall Set of 1965. He will serve in this capacity until the Winter Set is selected in late November.

He is one of the Midshipmen First Class selected for a top position in the Brigade of Midshipmen. He was selected on the basis of his academic standing and conduct.

Prior to entering the Naval Academy in 1962, Midn. Le Brun graduated from Pipestone high school. He enlisted in the service in June 1961.





United States Naval Academy

1964

Christmas Hop



DAHLGREN HALL

ANNAPOLIS, MARYLAND

MIDSHIPMAN PERSONAL EVALUATION SUMMARY REPORT

SRMC-USNA-SUPTOFF - 1610/98 (11-64)

TO: Registrar

(To be completed and forwarded to Registrar by Company Officer upon separation or graduation.)

NAME (Last, First, Initial)

LEBRUN K.C.

BASED UPON REPORTS AND OBSERVATION COVERING 7 SEMESTERS

CLASS

66

COMPANY

33

REASON FOR SEPARATION

QUAC RESIG

DATE OF SEPARATION

ITEM	QUALITY OF CHARACTERISTIC	NOT OBSERVED	LOW	SATISFACTORY	HIGH
1	Academic potential				✓
2	Academic effort			✓	
3	Bearing and Appearance				✓
4	Ability to get along with peers				✓
5	Ability to get along with superiors				✓
6	Respect for Naval Academy Regulations		✓		
7	Breadth of Interests			✓	
8	Dependability		✓		
9	Initiative		✓		
10	Self-reliance			✓	
11	Enthusiasm		✓		
12	Whole man evaluation			✓	

COMMENT

a "dealer" who has great potential - a poor teacher who frustrates easily - holds things inside him -

DATE

18 MAR 66

RANK

LT, USN

SENIOR MIDSHIPMAN PERSONAL EVALUATION SUMMARY REPORT

NRMC-USNA-SUPROFF - 1610/98 (11-64)

TO: Registrar

(To be completed and forwarded to Registrar by Company Officer upon separation or graduation)

NAME (Last, First, Initial)

LEBRUN, KENNETH LEO

CLASS

66

COMPANY

33

REASON FOR SEPARATION

QUALIFIED RESIGNATION

BASED UPON REPORTS AND OBSERVATION COVERING

2

SEMESTERS

DATE OF SEPARATION

ITEM	QUALITY OR CHARACTERISTIC	NOT OBSERVED		SATISFACTORY		HIGH	
		YES	NO	YES	NO	YES	NO
1	Academic potential						
2	Academic effort					✓	
3	Bearing and Appearance					✓	
4	Ability to get along with peers					✓	
5	Ability to get along with superiors					✓	
6	Respect for Naval Academy Regulations					✓	
7	Breadth of Interests					✓	
8	Dependability					✓	
9	Initiative					✓	
10	Self-reliance					✓	
11	Enthusiasm					✓	
12	Whole man evaluation					✓	

COMMENT

A COMPLEX YOUNG MAN WHO EVIDENTLY IS DEVOID OF SELF CONFIDENCE - A WHEELER AND DEALER WHO PLAYS A HARD GAME OF POLITICS - A WOMAN WITH NO GIRL OR CLOSE FRIENDS - HIDES ^{LACK OF} SELF CONFIDENCE IN AN ACT INDICATING EXCEL. CONFIDENCE - A PATHETIC YOUNG MAN WHO HAS GREAT POTENTIAL

DATE
4 FEB 60

SIGNATURE (Company Officer)

[Handwritten Signature]

RANK

LT, USN

AFFIDAVIT OF JOHN F. BARLOW

I am Captain John F. Barlow, United States Navy, Retired. I am submitting this affidavit for consideration in the case before the Board for Correction of Naval Records (BCNR) of former Midshipman Kenneth L. LeBrun.

I recently received a letter, dated 9 November 1933, from a Mr. Alan E. Goldsmith, a staff attorney with BCNR. Attached to the letter was documentation pertaining to former Midshipman LeBrun's separation from the Naval Academy. Subsequently, I spoke with Mr. Goldsmith on the telephone concerning the foregoing case and indicated that I would be willing to submit an affidavit, if that would be helpful.

I first reported for duty to the Naval Academy in 1965 when I was serving in the rank of commander. I was assigned as Administrative Officer in the Commandant's Office, a post in which I was serving during all of the events at issue in Mr. LeBrun's case. Later in 1966, after being promoted to captain, I became the Head of the Executive Department (now called Deputy Commandant) and continued to serve in that billet until I was transferred from the Academy in 1968.

After examining the relevant documentation, I have no recollection of Mr. LeBrun's case. I can only attribute this failure to the more that 28 years that has passed since his discharge and because, in my capacity as the Commandant's Administration Officer during the time frame at issue, I would only have had a marginal involvement in such a case.

The reason I am submitting this affidavit, despite my lack of recollection concerning this specific case, is Mr. LeBrun's contention, in essence, that the allegations against him should have been processed under the honor system and not the conduct system. After reviewing the documentation and based on my recollection of the policies in effect at the Academy in the time frame at issue, I am convinced that the case was not one which was suitable for resolution in the honor system. In this regard, the offense which Mr. LeBrun apparently committed is a serious one. It was not the policy to use the honor system in such cases; it was used only in less serious cases, such as an individual looking at another midshipman's test paper.

One must understand that the Naval Academy came to the honor system much later than the Military Academy at West Point. In this regard, when I was graduated from the Naval Academy in 1945, there was no honor system. I am unsure when such a system was implemented at the Naval Academy, but when I reported for duty in 1965, the Academy was still "feeling its way"

with the honor system and, as I said previously, we were limiting its use to cases of lesser importance.

John F. Barlow
JOHN F. BARLOW
CAPTAIN, USN (RET.)

Subscribed and sworn to before me this 5th day of January 1994.

George M. Koser
NOTARIAL SEAL
GEORGE M. KOSER, Notary Public
Ardmore, L. Merion Twp., Montgomery Co.
My Commission Expires Feb. 20, 1997

JEFFREY N. BERNSTEIN

ATTORNEY AT LAW
1129 Northern Boulevard
Manhasset, New York 11030

Telephone (516) 627-7600
Facsimile (516) 627-0530

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TO: Ken LeBrun
FIRM: Flagship Funding
FAX TRANSMITTAL NO. 757-4427
DATE: September 7, 1993
TIME: 10:06 am
NO. PAGES: 6
(Including Cover Sheet)
RE: BCNR/ Response from Kinney

COMMENTS:

Transmitted herewith is Kinney's belated response to our letter request dated August 6.

While Kinney professes to be willing to respond to our request for information, it appears that he "stands ready" simply to state that he does not recall any of the particulars concerning the Commandant's letter at issue.

As you will note, Kinney claims that he can't be reached by telephone until mid-October.

Please call me to discuss.



J. N. B.

JERRY G. BLUNSTON
ATTORNEY AT LAW
127 BENTLEY ROAD
MANNING, SOUTH CAROLINA 29301

127 BENTLEY ROAD
MANNING, SOUTH CAROLINA 29301

NO. 1
PM
AUG 9 1993
AUG 9 93
29301

KINNSIS 1214032019A16970815A/93
KINNEY
LEAGUE ISLAND
SONS ELM 04899

Eagle Island
Sunset ME 04683
28 August 1993

Dear Mr. Bernstein,

Your letter of 6 August 1993 was delivered by mailboat 27 August to the island. The envelope, enclosed, indicates that it was not forwarded by the postal service, from Annapolis until August 24th.

I responded to your June 23 letter from the United Nations maritime University in Sweden and because of travel, cruising in my boat, and time in Maine suggested my home address. I can now be reached at the address above until return home in mid-October. There is no telephone on the island, but the mailboat comes six days each week.

With respect to the BCNR; in my one appearance before the Board the most important information in the case, and the telling point, was supplied by a letter submitted by Admiral Royal Ingersoll, USN (ret), Commander in Chief Atlantic Fleet in WWII, some eleven years after matter under consideration happened. I stand ready to respond to a request for information by Mr. LeBrun or you as well as the BCNR.

This matter of the "Commandant's letter" is not one on which I can shed much light. It is about 29 years old. I served as Commandant for 45 months. I have no way of knowing whether the letter you

refer to in his "file" is authentic. The format is, as I ^{me} remember it, the standard that was employed in such cases. I am not aware of any conspiracy or deviation from the customary handling of the administrative conduct system in Mr. LeBrun's case. The Superintendent, RADM Draper Kauffman who would have made the recommendation of the Academy to the Chief of Naval Personnel and Secretary of the Navy died some years ago.

I recall Ken Le Brun favorably and believe he was active in the midshipman honor system. You may of course, as you point out, utilize "discoverv" in

the complaint you mention. Should you wish to pose any questions to me directly I would respond as fully as I would to a court directed response.

You pointed out what appear to be inconsistencies in the dates of memoranda concerned. They have puzzled me, but I know no explanation.

Sincerely yours

Robert Kinney

AFFIDAVIT OF SHELDON H. KINNEY (first draft)

This is the first draft of the declaration of Sheldon Kinney attempting to justify the summary dismissal of midshipman Kenneth L LeBrun from the U.S. Naval Academy in 1966, It is the second of three communications from Commandant Kinney that demonstrate a reversal of facts from the first to the last. The following is an accurate reproduction of Sheldon Kinney's draft affidavit in the black type. The red type is my correction of the numerous misrepresentations in the draft Affidavit. This affidavit solicited from Kinney by the BCNR (Bureau for Correction of Naval Records) at the direction of the Secretary of the Navy was sent back for a rewrite to remove any references to my 4-year outstanding record as documented in the year books and press releases. They removed all references in the final submission to my appointment as Midshipman Company Commander, election as Class President and Chairman of the Honor Committee, record setting intramural and varsity boxing record, expert rifle and pistol, and additional awards. The final affidavit, by omission, supports the two blatantly fraudulent performance evaluations which the BCNR promoted throughout the appeal process. The falsification of records supported the Navy's case in my initial summary dismissal which had to be approved by the Secretary of the Navy (SecNav) because of my appointment to the Academy from the enlisted ranks and my later appeal to the Federal Courts.

I am Rear Admiral Sheldon H. Kinney, United States Navy, Retired. I am submitting this affidavit for consideration in the case before the Board for Correction of Naval Records (BCNR) pertaining to former Midshipman Kenneth L. Le Brun, United States Naval Academy, Class of 1966.

This affidavit is submitted at the request of Mr. Alan E. Goldsmith, a staff attorney with BCNR. In October 1993, upon return to my home in Annapolis, MD after an absence of several months, I found a letter from Mr. Goldsmith essentially informing me of Mr. Le Brun's application to BCNR, noting that I had served as Commandant of Midshipmen at the Naval Academy at the time of Mr. Le Brun's discharge, and asking whether I could provide any relevant information. Attached to the letter was all of the material Mr. Le Brun had submitted to the BCNR, including portions of his Naval Academy records and other official documentation. This material partially refreshed my recollection of Mr. LeBrun's case, but I realized that the foregoing records were incomplete, so I went out to the Naval Academy in order to determine if further records might be available. I located and reviewed a file on Mr. Le Brun which contained additional material. In late October, Mr. Goldsmith and I discussed the case in considerable detail over the course of several hours. Subsequently, on 10 November 1993, Mr. Goldsmith sent me a letter which forwarded additional documentation he had received from the Naval Academy. Most of the remaining portion of this affidavit is a product of my recollection of events, as refreshed by my discussion of the case with Mr. Goldsmith and all of the foregoing documentation.

By way of background information, I first enlisted in the Navy in 1935 and progressed upward in the enlisted ranks until I was appointed to the Naval Academy in 1937. After graduating from the Academy in 1941, I served in a variety of assignments, both afloat and ashore, and was advanced in due course to captain (O-6). In January 1964 I reported for duty as Commandant of Midshipmen at the Naval Academy, and was serving in that position at the time of all the events at issue. During my tour of duty at the Academy, I was selected for promotion to rear admiral. I detached from the Naval Academy in September 1967.

As Commandant of Midshipmen at the Academy, I quickly discovered that my most frequent contact with midshipmen would be with those individuals who were outstanding in some phase of Academy life—academics, athletics or military achievement, or those individuals in trouble. Mr. Le Brun, then Midshipman Le Brun, was one of the few individuals who fell into both categories. During 1963, 1964 and 1965, Midshipman Le Brun garnered academic honors, earned varsity letters for his participation on the boxing team, and was elected president of his class. Additionally, during the Fall 1965 semester, he served as a midshipman lieutenant, or "striper," a leadership position (emphasis added) (midshipman company commander, fall set – this directly conflicts with Kinney's final affidavit submitted to the BCNR which addresses the fraudulent performance evaluations but does not reflect on my actual record and concludes that he has no clue who I was. That is an apparent deliberate act of fraud on the part of the BCNR and suggests that somebody other than Kinney did the final submission). Unfortunately, in late 1965, he was involved in an incident which led to his resignation from the Naval Academy. Even after reviewing the documentation previously mentioned, I can recall few of the details concerning Midshipman Le Brun's case. In this regard, readers must realize that these events occurred nearly 28 years ago, and as Commandant of Midshipman and the individual ultimately responsible for discipline at the Academy, I was involved in disciplinary actions too numerous to recall, which included, I would guess, about 25-30 involuntary discharges or resignations in lieu of discharge (qualified resignations). Accordingly, much of what follows consists of my knowledge and recollection of the way disciplinary actions were handled at the Academy during my tenure, and not my personal recollection of this case. I will distinguish the two as I go along. (emphasis added)

Even before reviewing the documentation in the case, I recalled that Midshipman Le Brun had been involved in a situation involving a false muster, and that it led to his discharge or resignation. Unfortunately, looking at the material does not greatly refresh my recollection. It appears from my memorandum of 4 February 1966, that Midshipman Le Brun was put on report for making a false muster on the night of 17-18 December 1965, specifically, he marked a Midshipman Dyer present at the midnight muster when available evidence failed to clearly show that he was, in fact, present in Bancroft Hall, the midshipman dormitory. In this regard, let me say that my memorandum of 4 February 1966 is clearly wrong, or at the very least inartfully drafted, when it refers to "at approximately 0008 on the evening of 18 December 1965. the appropriate word should have been "morning" and not "evening." However, what I was referring to was the early morning hours of 18 December 1965, some 10 hours before the beginning of Christmas leave for the Brigade of Midshipmen.

My memorandum of 4 February 1966 also refers to a "Report of Conduct dtd 18 December 1966." Clearly, this should have read "18 December 1965." (emphasis added) Accordingly, on that day, Midshipman Le Brun was put on report for false muster. Such a report could have

been submitted by the midshipman officer of the watch, the commissioned officer of the watch, or, conceivably, by another midshipman. Since the report is no longer available, it is impossible to tell who initiated it. Such reports were submitted to and logged in at the Academy's administrative office. The administrative officer at the time was Commander John F. Barlow, a fine officer with whom I was privileged to serve. After being logged in, the report was then passed on to the midshipman's company officer for investigation. In this case however, one must understand that no such investigation could occur immediately after **the report was** filed, **since all of** the midshipmen had **left the academy on Christmas leave**, and would not have returned until the first week following New Year's Day.

After the midshipmen returned from Christmas leave, the company officer would have investigated the case. In this regard, although such an incident would have been a relatively high priority item, his time would be also be taken up with numerous administrative matters pertaining to the beginning of a new semester. However, the company officer would eventually have investigated the matter by speaking with the individual who initiated the conduct report and all of the midshipmen with relevant information concerning the alleged offense, including the accused midshipman. This process normally took two or three days. (emphasis added – I was told that I was not guilty of any offense and given a direct order not to discuss with anyone. If guilty, the company officer would have filled out a conduct report. My “shock and awe” hearing came as a total surprise 7 weeks after the original incident. No conduct report was ever written. No copy of my forced resignation or any conduct report was saved to my personnel file as required by law) The company officer had the authority to dismiss the charges or impose an appropriate punishment within his authority, however, in a case such as this which involved a relatively serious offense, it is unlikely that he would have done so without consulting his immediate superior, the battalion officer, who had similar authority. In a case such as this, they would decide whether the case should be disposed of at that level, or referred to the commandant's office for further action.

At this point, I should note that I was very familiar with Midshipman Le Brun's company officer, Lieutenant Truxton Umsted. Lieutenant Umsted was a truly outstanding naval officer, who performed his duties as company officer in such a fine manner that I later selected him to be my personal assistant. I have great confidence that Lieutenant Umsted performed his duties properly in this case. The battalion officer, Commander Walter Donovan, was also a very thorough and able officer with whom I was honored to serve. Unfortunately, both of these individuals are deceased.

After the company and battalion officers decided that a conduct case indicated culpability on the part of a midshipman, and appropriate disciplinary action could not be imposed at their level, they would speak with my deputy about the case. My deputy at the time was Captain Herbert H. Reis, yet another fine and dedicated officer. He also had the authority to impose punishment or dismiss the charges. If the deputy concurred that further action was appropriate, an appointment would be made for the three of them to see me. They would orally brief me on the case, and leave the conduct report, or a copy, with me. I would then review the report and, if I thought the case was substantiated, arrange for an appointment to interview the midshipman. At the outset of the interview, the company and battalion officers would be present, but in virtually every case, I spoke with the midshipman in private; with only the two of us present. At this interview, I would encourage the midshipman to give his side of the story. When I saw a midshipman alone, it was relatively informal. I would typically come out from behind my desk and sit next to the midshipman and ask him to tell me

anything that might serve to exonerate him, or mitigate or extenuate his actions. I have no independent recollection of such a meeting with Midshipman Le Brun, but I feel certain that I met with him Since it was virtually an unwavering practice for me to do so. (emphasis added – I state emphatically that I never met with Kinney after the brief “shock and awe” meeting with the four officers. Kauffman sidelined Kinney which explains why the documentation throughout would have embarrassed the Keystone Cops.)

After meeting with the midshipman, I could dismiss the conduct case, impose some form of punishment less severe than discharge from the Academy, or send the case forward to the Superintendent of the Academy, my immediate superior, with a recommendation for discharge. As shown by my memorandum of 4 February 1966, I chose the third alternative. It is appropriate for me to explain why I would have chosen to do so. Submitting a false report that an individual was present when the individual was not, in fact, present may seem like a rather minor dereliction. In many contexts and situations, it undoubtedly would be. However, in the context of a naval officer, such an offense was and is a serious one. In a military context, one must be able to rely completely and totally on such reports, especially at sea and/or in combat. My memorandum of 4 February 1966 and the supporting documentation indicate that Midshipman Le Brun was dishonest in reporting that the other midshipman was present. Such conduct could not and cannot be tolerated. (emphasis added – this directly conflicts with affidavit from classmate Raymond Gadberry, attached)

Prior to submitting a recommendation for discharge, I always informed the accused midshipman of my intent to do so. At that time, I also advised the midshipman that he had the option to submit a qualified resignation, and informed him as to whether I would recommend acceptance of such a resignation. Such a resignation, if accepted, had certain benefits for the midshipman as opposed to an involuntary discharge in that it permitted him to "save face." In this regard, the midshipman could truthfully state that he had resigned, leaving the impression that he had left the Academy of his own accord and not been forced out. The Report of Transfer or Discharge (DD Form 214) issued to an individual who resigned stated the he had "resigned" and not that he had been "discharged," so no one knew of the nature of the separation unless the individual chose to disclose it. My memorandum discloses that on 2 February 1966, Midshipman Le Brun elected to submit such a resignation. (I had zero communications with Kinney, verbal or written, at any point after the event of Dec 18, 1965, until my attorney contacted him in regard to the appeal to the BCNR)

My memorandum of 4 February 1966 is consistent with other memoranda I submitted to the Superintendent on matters involving involuntary discharges and qualified resignations due to conduct offenses. The text of the report discussed the offense in some detail and made a recommendation as to disposition of the case. The first enclosure to the report was the qualified resignation, if the midshipman chose to submit one. The second enclosure was the conduct report which precipitated the case. The third enclosure was the Midshipman Personal Evaluation Summary Sheet, or Midshipman Summary Sheet, which was completed by the midshipman's company officer once I made it known that the raw would be forwarded to the Superintendent.. The fourth enclosure was always a draft recommendation from the Superintendent to the Secretary of the Navy. In this regard, the Superintendent, if he concurred with the proposed action, could have the draft retyped verbatim into final form for his signature, or modify the draft to suit his wishes. Of course, if he elected not to recommend discharge or acceptance of the resignation, the draft recommendation would be

discarded. (emphasis added) The fifth enclosure was always a draft letter to the midshipmen's parents and, like the report to the Secretary of the Navy, could be accepted, modified or rejected. Included in the documentation I have reviewed is a letter from the Superintendent to the Secretary of the Navy. I believe this is a copy of the draft letter I submitted to the Superintendent with my memorandum of 4 February 1966. Additionally, the letter to Mr. Le Brun's mother which I have examined appears to be the draft I submitted to the Superintendent. I cannot, however, explain the dates on these letters of 19 and 21 January 1966, since these drafts would not have been written until Midshipman Le Brun submitted his conditional resignation. (emphasis added – the documents for my dismissal were prepared in advance of my “shock and awe” meetings and in advance of my forced resignation – a flagrant violation of the Constitution and the UCMJ which dictates the Academy legal system.

(This is where the fun began. There were five critical documents involved in my summary dismissal: two flagrantly fraudulent performance evaluations signed by Lt. Umsted which cannot be reconciled with my actual record, one unsigned document each from Kauffman and Kinney, and a forced resignation document that I signed which was totally inconsistent with the Kauffman and Kinney documents – which is the most likely reason that the resignation document was destroyed in violation of the law. All records of significance from the Academy are required by law to be forwarded to the Military Records Center within 3 years of a midshipman's departure from the Academy. My files were reported to be checked out when I submitted an FOIA. I was informed by a junior Academy grad at the Center that the SOP was to send out copies of files, not the originals. That probably explains the loss of the resignation documentation which would have been an embarrassment to the Navy since the wording of the document, combined with the fraudulent performance evaluations, made a strong suggestion that I was resigning because I was gay, not because of any alleged offense. The unsigned documents from Kauffman and Kinney most likely never left the Academy as noted above.)

Prior to making his recommendation to the Secretary of the Navy, it was the policy of the Superintendent to meet with the accused midshipman. Once again, although I have no independent recollection of such a meeting in Midshipman Le Brun's case, I am quite certain that such a meeting would have occurred.. I was always present at such meetings, and often the battalion and company officers would be present as well. In this regard, the meeting would initially be relatively formal, with the midshipman reporting to the Superintendent in a military manner, and not just entering the office and taking a seat. (emphasis added – Kinney remembers me entering the room with the four officers for the very brief surprise meeting and taking a seat for which I was reprimanded) However, the Superintendent was not intimidating in such meetings and wanted to hear what the midshipman had to say in defense, extenuation or mitigation. Like me, he often spoke with midshipmen in private, especially if the midshipman so requested. (I state emphatically that I never met with Kinney privately even though he was in charge of both the conduct system and the honor code. He acknowledges not remembering a private meeting. In these documents he states that he is confused about the fraudulent performance evaluations and again about the dates on documents recommending my dismissal before the “shock and awe” meetings which had to be approved by him in the ordinary course of processing a dismissal.)

At this point, it is appropriate for me to discuss my observations of Rear Admiral Draper L. Kauffman, the Superintendent of the Naval Academy during all of the events at issue. He was one of the two superintendents with whom I served during my tenure as Commandant of

Midshipmen. In no way would I characterize Admiral Kauffman as an intimidating individual. Quite the contrary. He went out of his way to be friendly and outgoing with the midshipmen; too much so, from my perspective as the Academy's chief disciplinarian. It would be fair to say that Admiral Kauffman actively disliked disciplining midshipmen and agonized over the prospect of doing so. It was not unusual for Admiral Kauffman to impose a lesser degree of punishment than I proposed to him.

During this period of time, it was my practice in cases such as Midshipman Le Brun's to send a letter to Captain Homer Walkup at the Bureau of Naval Personnel setting forth the circumstances of the case in some detail since the Superintendent's letter to the Secretary of the Navy forwarded only the midshipman's qualified resignation and did not contain or forward any other supporting information. Captain Walkup was serving as a judge advocate in the Performance Division of the Bureau of Naval Personnel, and a recommendation for discharge from the Academy or a qualified resignation would be sent from the Superintendent to that division for staffing. The case would then be submitted to the Chief of Naval Personnel, who would send the case to the Secretary of the Navy with a recommendation as to the appropriate disposition. Captain Walkup served as the lawyer for the Chief of Naval Personnel in such matters and could brief him on the specifics of a case based on my letter. As can easily be seen, my letter to Captain Walkup of 17 February 1966 contains virtually the same information as my memorandum of 4 February 1966 to Admiral Kauffman. It appears, from the date of my letter to Captain Walkup and the entry in the "Miscellaneous Correspondence" section of Midshipman Le Brun's record, that the Superintendent submitted the case to the Secretary of the Navy, via the Chief of Naval Personnel sometime in mid-February 1966.

Once the Superintendent recommended an individual for discharge from the Academy, or recommended that a qualified resignation be approved, the midshipman was normally placed on leave and allowed to depart the Academy. Accordingly, Midshipman Le Brun, in the normal course of events, would have left the Academy in late February. It would have been unusual for him to be permitted to leave before the Superintendent recommended that his resignation be accepted. (emphasis added – Kauffman prepared documents for my dismissal in advance of the “shock and awe” meetings which guaranteed a smooth dismissal during the short semester break following the end of January exams when the Academy was empty and I had no access to outside advise.)

I note that Lieutenant Umsted submitted a second Midshipman Personal Evaluation Summary Report on Midshipman Le Brun in March of 1966. I am somewhat at a loss as to why this was done. (emphasis added – again, Kinney was in charge but did not know what was happening. Kauffman ran the show and was ultimately responsible for the fraudulent performance evaluations and one of the most screwed up documentations of a dismissal in the history of the Academy.) It may have been that it was the practice to submit such a report upon a recommendation for separation, to accompany such a recommendation, and another upon the midshipman's actual separation from the Academy.

The DD Form 214 for Midshipman Le Brun shows that he was not formally separated from the Academy until 1 April 1966. In this regard, I note the medical record entry of 30 March 1966 to the effect that he actually left the Academy on 1 February 1966. given the other documentation in the case, I do not believe that he would have left the Academy as early as that, but as I previously mentioned, he might very well have left the Academy sometime in late

February of 1966. (emphasis added – Kauffman wanted me out the door ASAP before the end of semester break to avoid any contact with members of the honor committee which could have been a severe embarrassment and a first opportunity to defend myself.)

I should briefly discuss the honor system as it relates to conduct offenses such as the one which resulted in Midshipman Le Brun's resignation. Clearly, it was proper to handle this offense in the conduct system. As previously noted, submitting a false muster was not only an offense, but a relatively serious one. Certain offenses, however, could be handled under either the conduct or the honor system, if they involved lying, cheating, stealing, or toleration of such activity. However, it was the policy at the time that once conduct proceedings or honor proceedings were begun concerning a particular offense, those proceedings were used to the exclusion of the other system. (emphasis added – this directly contradicts Kinney's updating of the honor code Sept, 1965 and the history of the Academy publishing the honor code as the foundation of the U.S. Naval Academy which cites falsifying a muster report as the classic example of an honor offense to be tried before the midshipman honor committee. In addition, Kauffman bypassed the rules for the conduct system for the obvious reason that he did not want the required publication of my dismissal until after I was gone from the Academy.)

Based on all of the foregoing, I believe that all of the actions taken in the case of former Midshipman Le Brun were supported by the facts and constituted an appropriate response to his misconduct. In this regard, after examining all of the relevant documentation, there appear to be only two unusual features of the case. First, as I noted, it seems to me unusual that Lieutenant Umsted would have submitted two Midshipman Personal Evaluation Summary Reports (emphasis added – Kinney, a highly competent officer, was in charge and didn't know what happened?). Second, an unusual amount of time elapsed between the date the case was first investigated, presumably early in January when the brigade returned from Christmas leave (emphasis added – Kauffman needed a significant time period to get pre-approval from SecNav for my dismissal and then several days over semester break with the Academy empty to avoid the possibility that anybody would interrupt the process), and 4 February 1966, the date of my memorandum to the Superintendent. Otherwise; the case appears to have been relatively unremarkable. **(Kauffman broke every rule in the book and we consider that "unremarkable")**.

SHEL, DON H. KINNEY

Rear Admiral, United States Navy

(Retired)

Subscribed and sworn to before me this day of 1993.

DECLARATION OF SHELDON H. KINNEY (final submission to BCNR)

The declaration of Sheldon Kinney is a boiler plate affidavit attempting to justify the summary dismissal of midshipman Kenneth L LeBrun from the U.S. Naval Academy in 1966, It is the last of three communications from Kinney that demonstrate a reversal of facts from the first to the last. The following is an accurate reproduction of Sheldon Kinney's final affidavit in the black type. The red type is my correction of the numerous misrepresentations in the final Affidavit. The first affidavit solicited from Kinney by the BCNR (Bureau for Correction of Naval Records) at the direction of the Secretary of the Navy was apparently sent back for a rewrite to remove any references to my 4-year outstanding record as documented in the year books and press releases. They removed all references to my appointment as Midshipman Company Commander, election as Class President and Chairman of the Honor Committee, record setting intramural and varsity boxing record, expert rifle and pistol, and additional awards. The final affidavit, by omission, supports the two blatantly fraudulent performance evaluations which the BCNR promoted throughout the appeal process. The falsification of records supported the Navy's case in my initial summary dismissal which had to be approved by the Secretary of the Navy (SecNav) because of my appointment to the Academy from the enlisted ranks and my later appeal to the Federal Courts.

I am Rear Admiral Sheldon H. Kinney, United States Navy, Retired. I am submitting this declaration at the request of the Board for Correction of Naval Records (BCNR) in conjunction with a petition filed with BCNR by Kenneth L. LeBrun.

I first enlisted in the Navy in 1935 and progressed upward in the enlisted ranks at sea until I was appointed to the Naval Academy in 1937. After graduating from the Academy in 1941, I served in a variety of assignments, both afloat and ashore, and was advanced to the grade of Captain (O-6). In December, 1963 I reported for duty as Commandant of Midshipmen at the Naval Academy, and was serving in that position at the time of the events at issue in Mr. LeBrun's petition.

As Commandant of Midshipman from January 1964 until September 1967, I had over 8,800 different midshipmen under my command. I was involved in disciplinary actions too numerous to recall, which included some 1100 major conduct offenses (emphasis added - see blistering response from attorney Robert Grey Johnson's affidavit - who served on the midshipman honor committee). An offense was classified as major if the maximum penalty for the offense was 75 demerits or discharge. Major offenses were

commonly referred to as Class A offenses. As the events occurred nearly 28 years ago, I recalled few specific details concerning Mr. LeBrun's case. I have, however, reviewed all of the materials Mr. LeBrun submitted to the BCNR, including portions of his Naval Academy records, and the materials provided to BCNR by the U.S. Naval Academy. This declaration is based upon my recollection and the materials I have reviewed.

Kinney's personal letter to my attorney and first draft of an affidavit submitted to the BCNR acknowledged my outstanding record which both confirms that he remembered me (I met with him multiple times as class president) and that he acknowledged that it was impossible to have two totally opposing performance evaluations showing me at the top of my class while simultaneously a falsely alleged gay loser. My Company Officer who signed the negative performance evaluations had simultaneously recommended me for midshipman company commander, approved press releases and met on multiple occasions one of two young ladies I was pinned to while at the Academy.

Mr. LeBrun was put on report for an incident of fraud. He marked a Midshipman Dyer present at the midnight muster on the night of 17/18 December 1965, when available evidence failed to clearly show that Dyer was present in Bancroft Hall. (Midshipman Gadberry submitted an affidavit directly contradicting the charges that I falsified the midnight muster. In fact, I was responsible for reporting Dyer absent for the midnight muster.) In fact he was not. My memorandum of 4 February 1966 indicates the event occurred at approximately 0008 on the "evening of 18 December 1965." The memorandum should have read "morning" and not "evening." this was some 10 hours before the beginning of Christmas leave for the Brigade of Midshipmen, . The 4 February 1966 memorandum also refers to a Report of Conduct dated 18 December 1966. This should have read 18 December 1965, as the day Mr. LeBrun was put on report for fraud. Based upon the entry in the Class A Log Book maintained in the Administrative Office, I believe these errors were simply oversights or typographical errors.

Captain Kinney, in addition to being a war hero, was one of the most detailed individuals that I had the opportunity to interface with at the Academy. What he has described in this second and final affidavit in terms of procedures and documentation was much closer to a Keystone Cops adventure than one of his work products. The photocopy signature on the final affidavit suggests that it was not drafted by Kinney since it clearly conflicts with his first submission to the BCNR.

A report chit could have been submitted by the midshipman officer of the watch, the commissioned officer of the watch, or by another midshipman. As the report chit is not available for review, it is impossible to tell who initiated it. When a major offense was involved, a copy of the report chit would have been forwarded to the Administrative Office. The original report chit would be passed on to the midshipman's company officer for investigation. In this case, the Company Officer's investigation would not have occurred immediately after the report was filed, as the midshipmen were departing the Academy on Christmas leave and would not return until after New Year's Day.

I was never presented with a conduct report which required an acknowledgment of receipt with a personal signature. If I had been "put on report" the entire Brigade would have known of the alleged conduct offense and there would not have been any of the following affidavits discussing my mystery disappearance over the semester break. No such document or record was ever presented to me. In fact, SecNav checked out my personnel file in violation of established procedures and removed and destroyed significant documents that related to my summary dismissal - the most significant of which was the confession that I was forced to sign that contained serious suggestions of homosexuality. I have two sets of records at opposite extremes, a virtual impossibility at the Naval Academy. Frankly, the Keystone Cops would likely have been embarrassed at the level of competency managing my summary dismissal. There is, however, a logical explanation for the sloppy and fraudulent actions discussed below.

After the midshipmen returned from Christmas leave, the Company Officer would have investigated the report chit by speaking with the individual who initiated the conduct report and all of the midshipmen with relevant information concerning the alleged offense, including the accused midshipman. A Company Officer had the authority to dismiss an offense or impose an appropriate punishment for minor offenses. In a case involving a serious offense, the investigation would be forwarded to the Battalion Officer. The Battalion Officer had authority to dismiss the charge or impose punishment in more serious matters but not in matters where the potential for separation existed. Where evidence indicated that the matter was a Class A level offense, the matter was referred to the Commandant's office for further action. Mr. LeBrun's Company Officer was Lieutenant Truxton Umstead. The Battalion Officer was Commander Walter Donovan. Both of these officers are now deceased.

After the Company and Battalion Officers decided that a conduct case indicated culpability on the part of a midshipman, and that the offense was a separation level offense, they would speak with the Administrative Officer and the Deputy Commandant about the case. The Administrative Officer at the time was Commander John Barlow (who submitted a fraudulent affidavit stating that an allegation of falsifying a muster board was not appropriate for trial before the midshipman honor committee when page 3 of the honor code updated by Kinney, Barlow's commanding officer, stated that falsifying a muster report was a classic example of an act to be tried before the midshipman honor committee). My deputy was Captain Herbert H. Reis. A "Class A" offense log book was maintained by the Administrative Office and served as a record of major conduct offenses. The Class A Log Book for the years 1962 to 1967 shows that Mr. LeBrun was put on report for an incident that occurred on 18 December 1965. The Academy did release a hand-written Class "A" log (most serious conduct offense at the Academy) which showed a history of logged offenses and a copy of Dyer's performance jacket which shows AOL as of Thursday, January 13, 1966. Dyer was clearly AWOL, not AOL, on Dec 18, 1965. AWOL is Absent Without Leave and involves leaving one's post without permission. AOL is Absent Over Leave or Liberty which is returning late from an approved leave or liberty. In this case Dyer was AWOL, leaving the Academy for a date with a young lady on a night, Dec 18, 1965, when there absolutely was no liberty. Dyer's performance jacket showed 75 demerits for an AOL on Thursday, January 13, 1966 which made no sense since there was no record of a mid-week liberty for that date in Academy files. The names of all the offenders in the Class "A" log were redacted except for my name which showed a Class "A" offense logged on Dec 18, 1965 which was the day of the original alleged offense. Somebody in the Academy with a conscience, aware of the hand-written log and the redacting, sent me a secret copy that was not redacted. That document showed that somebody had rewritten the log and replaced Dyer's Class "A" for being either AOL or AWOL with my name as the only evidence that I had been processed through the system with a statement of written charges. If the Academy's version of events was true, there should have been two entries into the Class "A" log - one each for me and Dyer. Since I was never presented with a conduct report which was a prerequisite to an entry into the Class "A" log, there was only one entry which had to have been for Dyer. They simply rewrote the page

in the log substituting my name for Dyer's and submitted the fraudulent document as evidence of a conduct report.

After a report chit was referred to the Administrative Office, it was reviewed by my deputy. Based upon the investigation, he had the authority to determine whether the charges should be handled as lesser offenses or as separation level offenses. If the deputy concurred that the matter involved a separation level offense, I would receive an oral briefing on the case. I would then review the report and investigation, and, if I thought the case was substantiated, arrange for an appointment to interview the midshipman charged. (Like so many other falsehoods in my summary dismissal, no such meeting ever took place.)

At the outset of the interview, the Company and Battalion Officers would normally be present; but in every case, I spoke with the midshipman in private, usually later, with only the two of us present. This was relatively informal, with both of us seated. I would ask the midshipman to tell me anything that might serve to exonerate him, or mitigate or extenuate his actions. **I have no independent recollection of such a meeting with Mr. LeBrun** (emphasis added) , but I believe that I met with him as it was an unwavering practice for me to do so.

There was a very good reason why Kinney did not recall a meeting with me - because it never happened. The Superintendent, Admiral Kauffman, had a problem. Bruce Dyer, my new roommate who went AWOL, was the son of a Naval Officer. Dyer had arranged with two of his "Bad Boy" classmates and friends to falsify the muster report while he went AWOL - a fact I learned 20 years later. He couldn't wait 12 hours for the start of a 2-week Christmas vacation to get laid. His Bad Boy friends apparently panicked when we did a search of the company area looking for Dyer for a midnight muster knowing it was impossible to falsify a muster when the Company Honor Rep was alerted to Dyer's absence for the midnight muster. They dropped the muster into my lap and I authorized reporting Dyer absent after having reported him present for an earlier muster base on the representations of one of the Bad Boys, Peter Abell, a political appointee from Massachusetts. The problem for the Superintendent was that any investigation by the Midshipman Honor Committee would likely have resulted in dismissible honor offenses for the 3 Bad Boys. The bottom line is that the Keystone Cops version of my summary dismissal came about because Kauffman was unfamiliar with the procedures for either a conduct or an honor offense and he could not involve Kinney, so he just blundered through by himself confident that the threats he made against me would keep me silent.

After meeting with the midshipman, I could dismiss the conduct case, impose some form of punishment less severe than discharge from the Academy, or send the case forward to the Superintendent of the Academy with a recommendation for discharge. As shown by my memorandum of 4 February 1966, I felt that discharge was appropriate in LeBrun's case. Submitting a false muster report is a serious act. In a naval context, one must be able to rely completely and totally on muster reports, especially at sea or in combat where such reports are critical to determine whether a man has been lost overboard, has been killed or wounded, or is otherwise missing. A midshipman's training emphasized this.

Prior to submitting a recommendation for discharge, I always informed the accused midshipman of my intent to do so. At that time, I also informed the midshipman as to whether I would recommend acceptance of a qualified resignation in lieu of discharge. A qualified resignation had certain benefits for the midshipman as opposed to an involuntary discharge. The midshipman could truthfully state that he had resigned and had left the Academy of his own accord. The Report of Transfer or Discharge (DD Form 214) would also reflect "resignation" as the reason for separation. The nature of the separation would not be apparent unless the individual chose to disclose it. Where circumstances and the midshipman's record warranted it, I would support a qualified resignation. Mr. LeBrun's contribution as class president, his role in the honor system, his academic performance, and his conduct record were among the factors I would have considered in determining whether to support a qualified resignation. The record indicates that on 2 February 1966, Mr. LeBrun elected to submit a qualified resignation and that I supported that request in my memorandum to the Superintendent dated 4 February 1966. (another document with no signature)

The forced resignation was the only document that I ever saw and it was destroyed when the SecNav checked out my file because it did not fit the scenario that Kauffman chose to create after my dismissal. (see attached Navy documents confirming that my entire personnel file was checked out and that the resignation letter had been destroyed) Since there never was a meeting with Kinney, none of the standard protocols that he discussed ever happened. Of interest is that Kinney was responsible for both the conduct and honor codes at the Academy. The honor system was created at the inception of the Academy dating back to 1845. And Kinney had updated the honor code in the fall of 1965 with a detailed explanation of how the proceedings should take place. Of note is that those documents stated that falsifying a muster

report was the classic example of an honor offense to go before the Midshipman Honor Committee - consistent with more than 100 years of practice at the Academy. If Kinney had been in control he would have been in violation of his own rules treating the allegations as a conduct offense rather than an honor offense. And Commander Barlow's affidavit that such a document did not exist was a blatant act of perjury. The Midshipman Class President and Chairman of the Honor Committee who succeeded me, Robert Spooner, submitted an affidavit to that effect. He was given a direct order by Barlow NOT to get involved in my summary dismissal. Since I did NOT commit an honor offense they could not let me go before the Honor Committee. For further insights into the validity of Kinney's final affidavit, please read the attached blistering affidavit from Robert Grey Johnson, Jr., an attorney and former member of the midshipman honor committee.

The Commandants memorandum of 4 February 1966 appears to be consistent in format and substance with other memoranda I submitted to the Superintendent on matters involving involuntary discharges and qualified resignations due to major conduct offenses. The text of such memoranda discussed the offense in some detail and made a recommendation as to disposition of the case. The first enclosure to the memorandum was the qualified resignation (destroyed), if the midshipman chose to submit one. The second enclosure was the conduct report which precipitated the case (I never saw or was presented with a conduct report in flagrant violation of the UCMJ and the Academy has never been able to produce a copy). The third enclosure was a Midshipman Personal Evaluation Summary Sheet, or Midshipman Summary Sheet, which was completed by the midshipman's Company Officer in conjunction with the case (a blatantly fraudulent document in comparison to my actual record). The fourth enclosure was a draft of a recommended letter from the Superintendent to the Secretary of the Navy (unsigned and fraudulent). The fifth enclosure was a draft of a letter for the Superintendent to send to the midshipmen's parents (dated prior to my surprise hearing, putting the firing squad ahead of the trial). With regard to the draft correspondence, the Superintendent would have the letters typed and prepared for signature by his staff. He could have the letters prepared as my staff recommended in the draft or with modifications that reflected his particular decision or choice of language. Included in the documentation I have reviewed is a copy of an unsigned letter from the Superintendent to the Secretary of the Navy. I believe this is a copy of a draft letter prepared by my staff and submitted to the Superintendent with my memorandum of 4 February 1966.

The letter to Mr. LeBrun's mother which I have examined also

appears to be a draft letter prepared by my staff and submitted to the Superintendent. The manner in which the letters are dated is indicative of draft correspondence. This era preceded Xerox and word processing. The final letters would have been retyped, would have had a serial number assigned, and the date would have been written out, not abbreviated by numerals separated by slants. Nowhere in the materials made available to me have I seen a copy of the letter sent to the Secretary of the Navy and signed by the Superintendent. The date on the draft letters is consistent with the time frame during which I would have interviewed Mr. LeBrun and informed him of my willingness to support a qualified resignation. It was routine to prepare draft correspondence at that juncture so that all would be ready if the midshipman elected to submit a qualified resignation (can't be serious about drafting documents stating a conviction and dismissal BEFORE the surprise hearing).

Again, there was no private meeting with Kinney. If I had seen the performance evaluation suggesting that I was gay (no girl) we might have had an unpleasant exchange of words if we had met. That statement which was blatantly false, included in a document with multiple blatantly false statements and likely supported by the forced resignation which included "resigning for the good of the service" and "resigning to escape the consequences of my misconduct" is beyond a "dog whistle" - more like a fog horn announcing removal of a homosexual for the good of the service - particularly since my company officer had met one of the two ladies that I had been pinned to during the time I served as his midshipman company commander - documented in the year book. It was a blatant and fraudulent misrepresentation of facts to avoid explaining why a midshipman with an outstanding record coming out of the enlisted ranks was being summarily dismissed so close to graduation. An appointment to the Academy out of the enlisted ranks came from SecNav and had to be approved by SecNav. The records sent up to SecNav were blatantly fraudulent with none of my outstanding records included - which is why the Navy had to destroy my signed confession. I also note that the draft documents from Kauffman and from Kinney are unlikely to ever have left the Academy - supported by Kinney's comments that drafts don't go anywhere after a resignation. The likely conclusion is that I was summarily dismissed for being gay, not for the fraudulent smoke screen that I falsified a muster report. Prior to making a recommendation to the Secretary of the Navy concerning a qualified resignation or discharge, it was the policy of the Superintendent to meet with the midshipman.

Although I have no independent recollection of such a meeting

in Mr. LeBrun's case, such a meeting would have occurred as it was the Superintendent's practice to do so. I was always present at that initial meeting. The Battalion and Company Officer could be present as well. The meeting would be formal, with the midshipman reporting to the Superintendent in a military manner. (Since there was no prior warning as to the purpose of the meeting I assumed on entering the room with the four officers that I was there for some form of business matter and took a seat and was severely admonished for my actions. The Commandant apparently remembered the surprise meeting but none of the other facts.) In such meetings, the Superintendent wanted to hear what the midshipman had to say in defense, extenuation, or mitigation. He often spoke with the midshipmen later in private. Rear Admiral Draper L. Kauffman was the Superintendent of the Naval Academy during the events at issue. He went out of his way to be friendly and outgoing with the midshipmen. It would be fair to say that Admiral Kauffman actively disliked disciplining midshipmen and tended to be lenient when he could. Admiral Kauffman is now deceased.

My private meeting with Kauffman was a very brief ending to a "shock and awe" procedure. He said that he wanted my resignation and if I did not comply he would destroy me. I would never get into another college or get a job because he would see to it that I would get a dishonorable discharge. If you came out of the enlisted ranks with no political connections it doesn't take much to understand that you have no choice in the matter. Falsifying the homosexual report confirms that he meant business.

The Superintendent was independently advised in discharge cases by his staff legal officer. At the time in question, the legal officer would have been either Captain Paul Borden or his successor, Commander Gordon Neese. Both were Special Duty Law Officers, U.S. Navy. Both are now deceased. Where the Superintendent determined that separation was appropriate, the case would be submitted to the Secretary of the Navy for a final decision. A recommendation for discharge from the Academy or a favorable endorsement on a qualified resignation would be sent from the Superintendent to the Secretary of the Navy, via the Chief of Naval Personnel for a recommendation as to the appropriate disposition. During my tenure as Commandant, it was my practice in cases such as Mr. LeBrun's to send a letter to Captain Homer Walkup (Special Duty Law), USN, at the Bureau of Naval Personnel, setting forth the circumstances of the case in more detail than the Superintendent's letter. Captain Walkup was serving as legal advisor in the Performance Division of the

Bureau of Naval Personnel and was, in effect, the lawyer for the Chief of Naval Personnel in such matters. My letter to Captain Walkup of 17 February 1966 contains the same information as my memorandum of 4 February 1966 to Admiral Kauffman. The date of my letter to Captain Walkup and the entry in the "Miscellaneous Correspondence" section of Mr. LeBrun's midshipman record both indicate that the Superintendent submitted the case to the Secretary of the Navy, via the Chief of Naval Personnel, in mid February 1966.

It was proper to handle Mr. LeBrun's actions as a violation of the conduct system. Submitting a false muster was a serious matter (which is why it went before the midshipman honor committee for the prior 100 plus years) and among those listed as Class A level conduct offenses. At the time, certain matters could be handled under either the conduct or the honor system if they involved fraud. It was also the policy at the time that once a conduct case or an honor case were begun concerning a particular offense, the proceedings of origin were used to the exclusion of the other system. In Mr. LeBrun's case, the matter originated as a conduct offense. (No conduct offense was ever originated. There is no record in my personnel file of any conduct offense. Kauffman bypassed all of the niceties and we went straight to a resignation. On appeal the Navy sent me a copy of the Class A log with all records except one redacted. It was impossible at the Academy to log a Class A without the supporting conduct report. The un-redacted copy was mailed anonymously - somebody with a conscience - showing that there was no Class A log for Dyer despite his 75 demerits awarded for being AOL on Thursday, January 13 - a date when there was no liberty. The Navy apparently did a re-write of several pages of the Class A log and substituted my name for Dyer's.) Once the report chit was submitted, the matter became a conduct action and remained in the Administrative Conduct System. (Kinney was a firm believer in the honor system and if Kinney had not been sidelined I am certain that the matter would have gone before the honor committee with disastrous results for Abell, Kobylk and Dyer.)

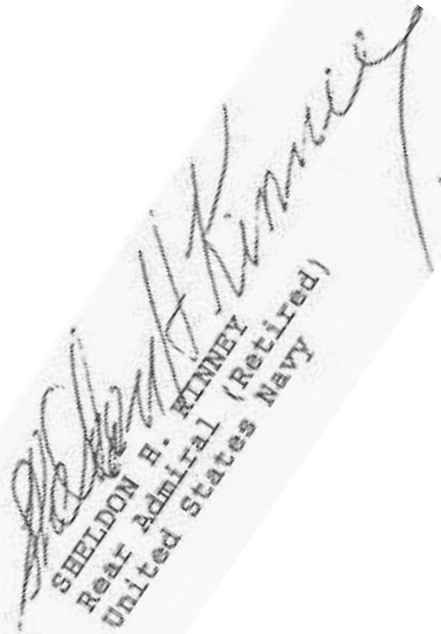
Once the Superintendent recommended an individual for discharge from the Academy, or recommended that a qualified resignation be approved, the midshipman was normally placed on leave awaiting the Secretary's action and allowed to depart the Academy. In the normal course of events, Mr. LeBrun would physically have left the Academy in February. (There is substantial evidence and affidavits confirming my mysterious disappearance over the semester break. The nuts and bolts of my dismissal were worked out during the 7-week period between the date of the alleged offense and the surprise hearing. The final coup was getting me

to sign a confession which had nothing to do with allegations I saw for the first time on appeal).

I note that Lieutenant Umstead submitted a second Midshipman Personal Evaluation Summary Report on Mr. LeBrun in March of 1966. That report coincides with the final action on the qualified resignation. A final evaluation was prepared by the Company Officer for inclusion in the record forwarded to the Office of the Registrar upon the midshipman's actual separation from the Academy. This final evaluation is specified on the evaluation form and was in addition to that which accompanied the conduct report. **(Both evaluations were blatant acts of fraud when compared with my actual records and Kinney knew that.)** Based on the foregoing, I believe that all of the actions taken in the case of former Midshipman LeBrun were supported by the facts, followed established procedures, and constituted an appropriate response to his major conduct offense.

If I had committed a major honor offense there would have been no need to violate the procedures for an honor offense or a conduct offense. There should have been a simple honor offense charge with a five-minute hearing that asked the question - did you falsify the midnight muster? It was a simple yes or no answer. In my case it was an emphatic "NO". The Superintendent in the "shock and awe" hearing just asked me if I signed Dyer present for the muster and I assumed he was asking about the early evening muster which I had signed. I said "yes" and was promptly dismissed from the meeting. Bottom line is that Kauffman went to great lengths and at considerable risk to his career to force my summary dismissal. I was not a party to the discussions held in secret to plan my dismissal, so I cannot testify as to what Abell, Kobylk and Dyer told their Daddies and Kauffman other than it most have been a huge pile of horse manure to protect their careers.

I also note that the following signature is done as a photo image - not an original signature - suggesting that Kinney never saw this second draft - consistent with a long series of fraudulent documents to cover up a major scandal. (photo images are easy to rotate)



SHELDON H. RINNEY
Rear Admiral (Retired)
United States Navy

**STATE OF MARYLAND
COUNTY OF ANNE ARUNDEL**

Subscribed and sworn to before me, in my presence, this 24th day of January, 1994, a Notary Public in and for Anne Arundel County, State of Maryland.

A handwritten signature in cursive script, reading "Patricia D. Lingner", is written on a light-colored, rectangular strip of paper that is tilted diagonally.

Patricia D. Lingner 7 Notary
Public
My Commission Expires 9-1-97

8 base A

1962-63

1963-64

1964-65

1965-66

1966-67

Number	Name	Cl. C.	Stn.	Swift	Of Report	Time/Year
# 378	[Redacted]	69	30	Shore of home		1 hour year Merged
# 379	[Redacted]	66	14	Spent time D.H.		75 days/1 year Merged. P.P.
# 380	Jo Marie, N.D.	66	53	Travel		P.P.
# 381	[Redacted]	66	13-2	Visitation 7/8/81	Observation	P.P.
# 382	[Redacted]	68	30	Stayed and with person	Traced name to check Parker	P.P.
# 383	[Redacted]	67	1	Alcohol, immi	N.O.I.	75 days.
# 384	[Redacted]	66	35	Alone car for	and unavail. see 1 acct.	75 days. P.P. domestic
# 385	[Redacted]	65	3	Tracked		100 days
# 386	[Redacted]	66	10	Date returning	from liberty	50 days.
# 387	[Redacted]	66	32	Shopping date	personal	35 days + 5
# 388	[Redacted]	66	32	Account from post	of date	25 days
# 389	[Redacted]	66	21	Date returning	from liberty	45 days
# 390	[Redacted]	66	6	Tracked and Salem	in Oregon, gave address as	75 days + 2.
# 391	[Redacted]	66	11	Alcohol, immi, room. returned	Tracked 1/21/81, merged in 5 name, plates and them number.	85 days.
# 392	[Redacted]	66	19	On TV screen	made prints & watch against	25 days.
# 393	[Redacted]	66	30	Date returning to no	on liberty	50 days

Number	Name	Cl.	Co.	Att.	Brief
# 378	Osness, R. E.	69	30	6	Honor offense
1-11-66 # 379	Mc Shath, J. A.	66	14	3	Absent from B. H.
12-18-65 # 380	LeDuan, K. L.	66	50	6	Fraud.
12-65 # 381	Alley, M. Z.	66	12	2	Violation of Plea
4-5-66 # 382	Arum, M. S.	68	30	5	Stop and midnight
4-3-66 # 383	Castro, J. J.	67	1	2	Alcohol. 2 min
2-25-66 # 384	Norris, R. W.	66	35	6	Absence from fr
2-28-66 # 385	Mullikin, D. E.	69	3	1	Falschod.
4-17-66 # 386	Cañon, A. E.	66	10	2	Late returning
# 387	Pulsifer, E. K.	66	22	4	Shipping Lab.
4-16-66 # 388	Kowalich, S. J.	66	32	6	Absent from post
4-17-66 # 389	McCork, K. W.	66	21	4	Late returning
4-9-66 # 390	Shelton, S. A.	66	30	5	Top of weekend Baltimore.
4-13-66 # 391	Dennis, P. J.	66	17	3	Alcoholic beverage room, removed
4-16-66 # 392	O'Keefe, T. S.	66	19	4	In TV room
4-17-66 # 393	Shields, S. J.	66	30	5	Late returning fr
4-15-66 # 394	Murphy, D. J.	66	16	3	Shipping Lab.

of Report

Final Action
Dropped

75 dems / Exceeded
demerits. Q. R.
Q. R.

Indebtedness.

Q. R.

forged name to checks of another

Q. R.

A.O.L.

* 75 dems.

and unauth. use of auto.

* 75 dems. Exceeded
demerits.

* 100 dems

from liberty
period

CLASS "A"
LOG
1965-1967
QR = Qualified
Registration

50 dems.

35 dems + 5

of duty

25 dems.

from liberty

45 dems.

in Annapolis, gave address as

75 dems + 2.

labeled three midshipmen in a
name plates and room number.

85 dems.

while member of watch squad.

25 dems.

on liberty.

50 dems.

1-21-66

DATE CHANGED

TYPE FACES DON'T MATCH

FIRST MEETING WITH OFFICERS

WAS AFTER 1/28/68 FINAL

EXAMS.

Dear Mrs. Lickness:

It is with deep regret that I write to inform you that I have forwarded to the Secretary of the Navy a recommendation for the acceptance of the qualified resignation of your son, Midshipman Kenneth Leo Lebrun, U. S. Navy.

Circumstances surrounding Midshipman Lebrun's pending separation stem from his having committed a fraudulent act in that he marked his roommate as being present at an accountability inspection when in fact his roommate was an unauthorized absentee from the academic limits of the U. S. Naval Academy.

If Midshipman Lebrun had not requested that his qualified resignation be accepted I would have recommended that he be discharged from the Naval Academy because of unsatisfactory conduct. However, I believe that in his case the needs of the Naval Academy will be adequately served by the acceptance of his qualified resignation. After reviewing my recommendation, the Department of the Navy will render final decision.

Sincerely,

DRAPER L. KAUFFMAN
Rear Admiral, U. S. Navy
Superintendent

Mrs. Olaf Lickness
624 8th Avenue, S. W.
Pikestone, Minnesota

17 February 1966

Dear Homer,

The qualified resignation of Midshipman Kenneth Leo Lebrun, Class of 1966, has been forwarded to the Secretary of the Navy via the Chief of Naval Personnel and its acceptance has been recommended.

At approximately 0008 on the evening of 18 December 1965 Midshipman First Class Gadberry, in the process of conducting the 2400 taps inspection, noticed Midshipman First Class Dyer to be absent from his room. Midshipman Gadberry awakened Midshipman Dyer's roommate, Midshipman First Class Lebrun, and questioned him concerning Midshipman Dyer's whereabouts. Midshipman Lebrun stated that he must be around some place and went back to sleep. Midshipman Gadberry commenced a search through the company area in an attempt to locate Midshipman Dyer. Midshipman Gadberry again checked Midshipman Dyer's room, woke Midshipman Lebrun again who then assisted in the search. At approximately 0028 Midshipman Lebrun took the taps inspection board from Midshipman Gadberry and said that he would assume the responsibility of signing the board. He then erased the absent mark from Midshipman Dyer's name and signed the taps inspection board as the taps inspector. At approximately 0035 Midshipman Gadberry returned to Midshipman Lebrun's room and suggested that Midshipman Dyer be marked absent. Midshipman Lebrun again stated that Midshipman Dyer must be somewhere around and returned to bed. Midshipman Gadberry then went to the battalion office and placed an absent mark after Midshipman Dyer's name, erased Midshipman Lebrun's name as taps inspector and signed his own. Midshipman Lebrun stated that he surmised that

Midshipman Dyer was somewhere in Bancroft Hall and that he could not see placing him on report for being absent. Midshipman Lebrun's roommate was not present in Bancroft Hall but was, in fact, an unauthorized absentee over liberty.

Midshipman Lebrun was admitted to the U. S. Naval Academy on 27 June 1962 on a Secretary of the Navy (U. S. Navy) appointment. He enlisted in the U. S. Navy on 6 June 1961 which enlistment expired on 14 December 1964. His reserve obligation extends until 5 June 1967. Midshipman Lebrun attended the Naval Academy Preparatory School, Annapolis, from September 1961 to June 1962.

I hope the foregoing will assist you in handling this case.

Sincerely,

SHELDON F. KINNEY
Captain, U. S. Navy
Commandant of Midshipmen

Captain Homer A. Walkup, USN
Bureau of Naval Personnel (Pers B066)
Arlington Annex
Washington 25, D. C.

1/29/66

Superintendent, U.S. Naval Academy
Secretary of the Academy
Chief of Naval Personnel

Midshipman Kenneth Leo LEBRON, Class of 1966, qualified

(1) Qualified resignation of Midshipman LEBRON dated 2 Feb 66

The qualified resignation of Midshipman Kenneth Leo LEBRON, Class of 1966, is forwarded and recommended for acceptance.

On the evening of 10 December 1965, Midshipman LEBRON, conducted a physical inspection of the rooming quarters present at the 1400 ship account from the academic limits of the U.S. Naval Academy.

Midshipman LEBRON, not elected to submit his qualified resignation, recommended for his discharge for unsatisfactory conduct, would have been forwarded to the Secretary of the Navy. However, the Superintendent's acceptance of Midshipman LEBRON's qualified resignation.

Midshipman LEBRON was admitted to the U.S. Naval Academy on 10 June 1962 by a Secretary of the Navy appointment under the original training service obligation by enrollment in the U.S. Naval Academy.

CHARLES L. KAUFFMAN

RECOMMENDATION FOR DISMISSAL
DATED BEFORE CHARGES FILED
AND BEFORE MEETING WITH OFFICERS

REPLY TO INQUIRY (NCP)		DATE 12/15/93
SUBJECT:	REG NR	Your reference
Returned Request	SN/SSN	Date of inquiry

The answer to your inquiry is furnished below. This abbreviated form of reply has been adopted as a means of supplying information speedily.

The record needed to answer your inquiry is currently out of file for the purpose of responding to a previous request. Please resubmit your request to this Center in 60 days, accompanied by this form, and we will process it promptly.

Your cooperation is greatly appreciated.

<p>Ken LeBrun</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>NCPM <i>MS MD</i></p> <p>RICHARD M. SCHWABER Chief, Navy Reference Branch</p>
	<p>NATIONAL PERSONNEL RECORDS CENTER</p> <p><input type="checkbox"/> Military Personnel Records 9700 Page Avenue St. Louis, MO 63132-5100</p> <p><input type="checkbox"/> Civilian Personnel Records 111 Winnebago Street St. Louis, MO 63118-4199</p>

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

NA FORM 13018-C (1-88)

I am also requesting a copy of the BUPERS Instruction 1070.27 "Document Submission Guidelines for the Military Personnel Records System" (and a copy of the "Retained/Delete List" if it is a separate document).

Your cooperation in this matter is deeply appreciated.

Sincerely Yours,

Kenneth L. LeBrun

Kenneth L. LeBrun



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D C 20350-1000

12 MARCH 1992

Mr. Kenneth L. LeBrun
[REDACTED]

Dear Mr. LeBrun:

Thank you for your letter of January 19, 1992, to the Secretary of the Navy, requesting a copy of your letter of resignation from the U.S. Naval Academy. I am responding for Secretary Garrett.

We searched your service record for your letter of resignation but could not find it. Since your letter is not contained in either your file at the Naval Academy or your service record, I can only surmise that your letter was destroyed when your file was closed. The only two documents your service record contained that referred to your resignation were an Armed Forces Report of Transfer or Discharge (DD Form 214) and an Administrative Remarks page. I have enclosed copies of these documents for your use.

If I can be of any other assistance, please let me know.

Sincerely,

A handwritten signature in cursive script, reading "Barbara Spyridon Pope".

BARBARA SPYRIDON POPE
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Enclosures

7001 Hundsford Lane
Springfield, VA
22153
24 June 1993

Board for the Correction of Naval Records
Navy Annex
Washington DC
20370-5000

Sirs,

I recently read the package of material that former Midshipman LeBrun has assembled. He had departed from the Academy so abruptly that I did not previously know of the handling of his case. It is clear to me that, at best, there was a terrible misunderstanding of the facts in January of 1966. The Superintendent *may* have thought the muster Midshipman LeBrun signed was the midnight muster -- he actually signed the early muster. If so, that might explain the factually incorrect unsigned letters. It seems straightforward that Midshipman LeBrun would not have so quickly concurred in having Midshipman Dyer marked absent on the midnight muster if he were attempting to cover his own dishonorable actions on the previous muster. Nor was Mr. LeBrun afforded the benefit of either the Honor Concept procedures or the normal procedures for handling conduct offenses.

That does not explain the inconsistencies of the dates on letters and attachments, however. My personal recommendation on this to all concerned would be to refer it immediately to the Navy IG or NIS. Nonetheless, since former Midshipman LeBrun only asks for limited actions which would restore his good name and his own sense of self esteem, I strongly recommend that such remedies be granted immediately.

Sincerely,

Edward J. Ohlert

BOARD FOR CORRECTION OF NAVAL RECORDS
DEPARTMENT OF THE NAVY

-----X
In re: Petition of :
KENNETH L. LEBRUN, :
MIDSHIPMAN, CLASS OF 1966 :
-----X

COUNTY OF FAIRFAX)
: ss.
STATE OF VIRGINIA)

AFFIDAVIT OF EDWARD J. OHLERT

EDWARD J. OHLERT, being duly sworn, deposes and says:

1. I am a resident of the State of Virginia. I make this affidavit based upon my personal knowledge. My social security number is [REDACTED].
2. I am a member of the Class of 1966 of the United States Naval Academy. At the time of the events regarding Mr. LeBrun's petition, I was assigned to Company 33, the same company as Mr. LeBrun, and was the first class Company Honor Representative for that company. I was responsible for training on the Honor Concept, providing advice on the Honor Concept to those in my company, and processing alleged violations of the Honor Concept reported within my company. I routinely kept the Company Officer, Lt. Truxton Umstead, USN, informed on the status of alleged violations of the Honor Concept. Further, I frequently acted as the Sixth Battalion Honor Representative when he was unavailable and served on the Brigade Honor Board in that capacity. I also served as an Investigating Officer for alleged honor violations occurring within other companies.
3. There were two procedures by which Midshipman actions which were judged undesirable could have been processed. First, in the case of a first class Midshipman committing a violation of the Midshipman Honor Code, the Midshipmen perform an investigation and, if warranted,

convened a Brigade Honor Board. Second, in the case of a Midshipman violating the Regulations of the Naval Academy or of the Navy, even serious violation, a conduct report would be initiated. Normally a conduct report is written up immediately by a senior midshipman or an officer. The Academy officer corps would investigate and process such offenses. For any specific Midshipman actions then, there could be a possible violation of the Honor Concept, a possible violation of Regulations, or no offense.

A. First, considering the Honor Concept; as the Company Honor Representative, I would have been aware of any alleged honor violations occurring within my company. Further, I would have discussed such a situation with the accused Midshipman, and provided him advice as appropriate. As noted above, I would have apprised the Company Officer of the status of an alleged violation within the company. No alleged honor violation was processed against Midshipman LeBrun for the events in reference. Further, had an alleged violation been processed, it is not likely that a unanimous guilty vote, or any guilty votes, would have resulted since the single witness to the entire incident, Mr. Raymond Gadberry, states that he believes Midshipman LeBrun acted honorably and in good faith. Further, the Board would have noted that Midshipman LeBrun concurred in reporting Midshipman Dyer absent at the later muster. He would not have done so if he were attempting to conceal dishonorable actions. Had even minimal advice been provided to Mr. LeBrun by an honor representative knowledgeable of Mr. Gadberry's position, the low probability of conviction would have been made clear to him. It is not a violation of the Honor Concept to be deceived by another Midshipman.

B. Second, considering the conduct report system; even if the events referenced were considered a conduct violation, and were reported and processed as such, the maximum penalty even for a "Class A" offense would have been 75 demerits. This alone would not have been sufficient to dismiss Mr. LeBrun since first class Midshipmen were allowed 150 demerits in the year. Further, there is an inherent appeals process available even for the most minor offenses.

4. Given that Mr. LeBrun would likely have been found innocent of an allegation of an honor violation, and also that he would not likely have been dismissed even if found guilty of a conduct

offense, Mr. LeBrun was apparently not afforded benefit of the normal procedures for handling either honor or conduct offenses. Nor was Mr. LeBrun afforded even minimal, let alone routine, advice on any alleged honor violation. Logically, it appears that there are no grounds upon which Mr. LeBrun would have been dismissed by official action, and the sole reason for his departure was his resignation under duress.

5. The Midshipman upon whom Mr. LeBrun relied for information that Midshipman Dyer was present, Midshipman Peter Able, was later dismissed from the Naval Academy, having been convicted of a violation of the Honor Concept. I personally wrote up the charge on that violation and personally presented the circumstances in testimony to the Brigade Honor Board. The Thirty-Third Company was unfortunately very polarized, and Midshipman Able, Midshipman Dyer and a few other Midshipmen were close personal friends in a small close-knit group that did not include then-Midshipman LeBrun.

Edward J. Ohlert

Edward J. Ohlert

Sworn to before me this
18th day of June 1993

Mark S. Daniel 6/18/93

Notary Public

My Commission Expires 12-31-97

9 January 1992.

Raymond E. Gadberry, Jr., Cmdr USNR, Ret
Class of 1966
17430 Wilson Creek Rd
Gallatin Gateway, MT 59730
(406)763-4504

Dear Sirs,

This letter is to recommend that Ken LeBrun be granted relief on his petition for his rightfully earned Naval Academy diploma.

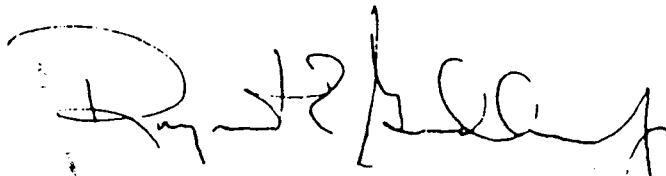
I have received the enclosures concerning Ken's resignation including Captain Lynch's letter to Ken dated 28 October 1991. I find the facts as stated in the Commandant's letter, dated 4 February 1966, to be basically incorrect. As Ken has correctly stated, the muster in question was the early evening muster, not the midnight inspection. LeBrun was informed that Dyer was present at the early muster and acted accordingly and in good faith.

There are a couple of points I'd like to make about the incident:

1. I would not then (nor would I now) have altered a muster that was conducted by another individual. If I were going to question the validity of a muster I would do it verbally or in writing but I would not alter the board.
2. At that point in time I had known Ken for five years including NAPS. During that time, particularly NAPS and plebe year, there were many opportunities for Ken to be in a position where an inappropriate action and/or statement would have eased a situation. I never at any time saw Ken act in a less than honorable way.

I cannot speculate on what motive there was for Ken to be treated the way he was; what I do know for certain is that Ken would not have done anything that could remotely be considered an honor violation. Ken acted in good faith. If he can be faulted for anything, it was in taking the word of another midshipman who was subject to the same honor code that Ken was.

If there is any way that I may be of further assistance do not hesitate to contact me. It appears that Ken is a man that has been wronged too long.



BOARD FOR CORRECTION OF NAVAL RECORDS
DEPARTMENT OF THE NAVY

----- X

In re: :

KENNETH L. LeBRUN, :

Petitioner. :

----- X

CITY OF GALLATIN GATEWAY)
: SS.
STATE OF MONTANA)

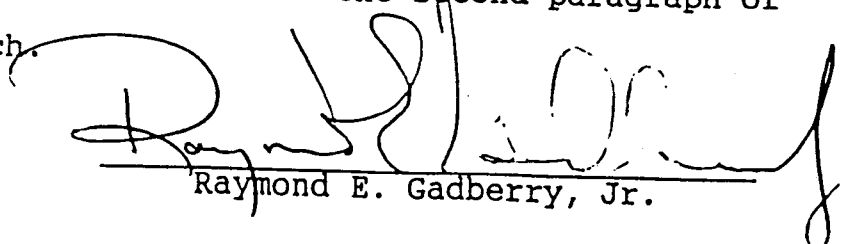
AFFIDAVIT

RAYMOND E. GADBERRY, JR., being duly sworn, deposes and says:

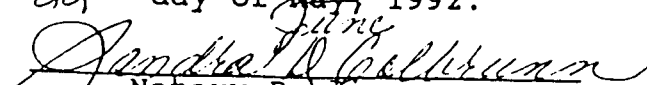
1. I am a resident of the State of Montana. I make this affidavit based upon my personal knowledge. I submit this affidavit in support of the petition of Kenneth L. LeBrun to correct his naval record.

2. Annexed hereto as Exhibit A is a true and correct copy of a letter, dated January 9, 1992, that I wrote and sent to Admiral Thomas Lynch, Superintendent of the U.S. Naval Academy. The statements made therein are true to the best of my knowledge and belief.

3. Annexed hereto as Exhibit B are true and correct copies of the "enclosures" referred to in the second paragraph of my letter to Admiral Lynch.


Raymond E. Gadberry, Jr.

Sworn to before me this
22 day of May, 1992.


Sandra R. Callahan
Notary Public

July 30, 1991

Admiral Thomas Lynch
Superintendent's Office
Admin. Bldg.
U.S. Naval Academy
Annapolis, Md. 21402

Re: Midshipman Ken LeBrun, Class of 1966

Dear Admiral Lynch,

After receiving a letter and subsequent phone call from classmate Ken LeBrun, I was moved to write to you in order to provide you with personal, historical information.

My military career ended in 1984 after 25 years of enlisted, Midshipman and Marine Corps officer service. As a Midshipman, I was a three striper, but more importantly, I was Treasurer of my class for three years and then served as Class President during my first class year. In both positions, I was involved in an official capacity with the Honor Concept.

The most important duty that I had as Class President was the administration of the Honor Concept for the entire Brigade of Midshipmen. This included the responsibility for both the training and enforcement of the Honor Concept. I was recipient of the Brainard Award for being the Midshipman who contributed most to the Honor Concept our first class year - 1966.

Ken's letter brought back very clear memories of his case. My first awareness of Ken's problems came when classmates asked why the Honor Committee had found him guilty of an honor offense. I knew nothing about the case because the Honor Committee had not been involved in the dismissal. I was interested in finding out the details.

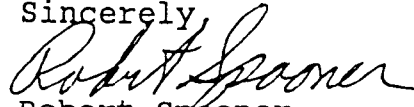
My relationship with the Superintendent, Admiral Kauffman, and the Commandant, Captain Kinney, was quite good. As Class President, I had nearly immediate access to either of them. In this case, I first approached Commander Barlow, the Commandant's Administrative Officer, for an explanation. Commander Barlow informed me that Ken LeBrun was being discharged for a conduct violation and that there was no need to speak to the Commandant since it was not an Honor Concept matter. I did not pursue it further and until I received Ken's letter, I was unaware of the exact circumstances of his dismissal.

In retrospect, the handling of Ken's case, to the best of my knowledge, was a unique departure from the normal procedures as I knew them from 1962-1966. I support his request in as much as I believe that, for some reason, he may not have been treated the

same as other Midshipmen. In addition, I believe that, at the very least, he deserves an official explanation of what took place in 1966.

If I can be of any further assistance, I remain ready to help. Thank you in advance for your consideration of this matter.

Sincerely,

A handwritten signature in cursive script that reads "Robert Spooner".

Robert Spooner
22516 Killy Street
El Toro, Calif. 92630
(714) 859-4836

BOARD FOR CORRECTION OF NAVAL RECORDS
DEPARTMENT OF THE NAVY

----- X

In re: :
KENNETH L. LeBRUN, :
Petitioner. :

----- X


CITY OF EL TORO)
: ss.
STATE OF CALIFORNIA)

AFFIDAVIT

ROBERT L. SPOONER, being duly sworn, deposes and says:

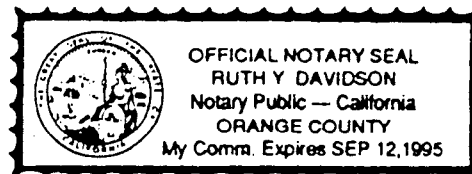
1. I am a resident of the State of California. I make this affidavit based upon my personal knowledge. I submit this affidavit in support of the petition of Kenneth L. LeBrun to correct his naval record.

2. Annexed hereto as Exhibit A is a true and correct copy of a letter, dated July 30, 1991, that I wrote and sent to Admiral Thomas Lynch, Superintendent of the U.S. Naval Academy. The statements made therein are true to the best of my knowledge and belief.


Robert L. Spooner

Sworn to before me this
5th day of May, 1992.


Notary Public



3421 Sage Brush Trail
Plano, Texas 75023
October 21, 1993

Board for the Correction of Naval Records
Navy Annex
Washington, DC 20370-5000

Dear Sirs:

Please consider the attached affidavit when you review petition number 4132-93 from Kenneth L. LeBrun.

As I mention in the affidavit, Ken LeBrun was one of my finest classmates at the U.S. Naval Academy. His departure was a significant and discouraging event for many members of the Class of 1966.

The details of what happened in Ken's case have faded from my memory, but not the sense of disappointment at losing such an outstanding classmate. Until recently, I have always been confident that Ken was provided fair treatment, and that the Academy had followed appropriate processes in deciding to dismiss him. Now that I have reviewed the material he has provided, I have serious misgivings about the way the situation was handled.

Thank you for your consideration of my input in support of Mr. LeBrun.

Sincerely,



Michael J. Sweeney

BOARD FOR CORRECTION OF NAVAL RECORDS

DEPARTMENT OF THE NAVY

-----X

In re: Petition of :
Kenneth L. LeBrun, : Docket No. 4132-93
Midshipman, Class of 1966. :

-----X

CITY OF PLANO) : SS.
STATE OF TEXAS)

AFFIDAVIT OF MICHAEL J. SWEENEY

Michael J. Sweeney, being duly sworn, deposes and says:

1. I am a resident of the state of Texas. I make this affidavit based upon my personal knowledge. I submit this affidavit in support of the petition of Kenneth L. LeBrun in which he seeks the review and correction of his naval record.
2. I was Commander of the Brigade of Midshipmen at the time of Mr. LeBrun's departure from the U. S. Naval Academy. He was, without doubt, one of the finest leaders in the Class of 1966. His dismissal remains one of the biggest disappointments of my four years at the Academy, and I am very concerned about the facts which have recently been presented to me regarding his case. I was surprised to learn that he had been dismissed for a conduct offense, rather than being given a hearing before the Brigade Honor Committee.
3. The allegation of a false muster report should have been handled as an honor offense, and not processed through the conduct system. As Brigade Commander, I was a standing member of the Brigade Honor Committee. I have assumed over the years that the case of Mr. LeBrun had been handled as an honor offense, and was judged before the committee on one of the occasions where I was absent with other brigade duties. The facts recently presented to me indicate that such was not the case. It is apparent that the Naval Academy honor system, in which I invested considerable personal energy over four years at the academy, was incorrectly circumvented by the officials involved. This is an injustice to Ken LeBrun, and to the Class of 1966.

Michael J. Sweeney
Michael J. Sweeney

Sworn to before me this
21st day of October, 1993

Bonnie S. Crum
Notary Public

LAW OFFICES
ROBERT GREY JOHNSON, JR.
30011 Ivy Glenn Drive, Suite 124
Laguna Niguel, California 92677
(714) 495-1211

ROBERT GREY JOHNSON, JR.
PATRICIA J. MILLER
KARIN E. CANON

FAX (714) 495-7736

DATE: JUNE 8, 1994

FROM: Robert G. Johnson

TO: Kenneth LeBrun

FAX NO.: 516-757-4427

NUMBER OF PAGES INCLUDING COVER SHEET: 10

COMMENTS: The following is my affidavit. If this
declaration is acceptable, to whom should I send it?

SENT TO BCLR SIGNED COPY.

Please call immediately if you do not receive all pages or if you have any questions regarding
the material contained.

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately. Thank You.

DRAFT

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AFFIDAVIT OF ROBERT GREY JOHNSON, JR.

I, ROBERT GREY JOHNSON, JR, am a graduate of the Class of 1966 at the United States Naval Academy. I am submitting this Affidavit for consideration before the Board for Correction of Naval Records (BCNR) to correct the records of former midshipman Kenneth L. LeBrun. I am presently an attorney at law, licensed to practice law in the State of California and before the Federal Courts of the United States. I graduated from the Naval Academy in 1966 and served five (5) years in the cruiser destroyer force in the Western Pacific based in Long Beach and San Diego. I served two (2) tours in Vietnam, including a one (1) year shore position at the Naval Support Activity in Saigon in 1969 and 1970. Upon return from Vietnam, I enrolled as a night student at the University of San Diego and transferred to the day division in 1971, after resigning from the United States Navy. I graduated from the University of San Diego Law School in 1973, and have been in the private practice of law since that time. I presently have an active law practice in the County of Orange, and employ three (3) attorneys in my office. I have been a Pro-Tem Judge in the Superior Court of San Diego County since 1990, having served as recently as May 10, 1994.

I have reviewed the many affidavits that have been submitted to the Board for Correction of Naval Records, both on behalf of, and in opposition to, the petition of my former classmate, Kenneth LeBrun. I understand that he is seeking to

1 have his records corrected so that he may receive his diploma
2 and formally graduate from the United States Naval Academy.

3 While at the Naval Academy, I was elected Secretary of
4 the graduating class of 1966 during class elections in the
5 latter part of the school year of 1965. I am presently the
6 Corresponding Secretary for the West Coast. As a class
7 officer of the Class of 1966, I sat on the Honor Board and
8 participated in administering the honor concept in cases that
9 were presented before the Midshipmen Honor Board.

10 I have read with great interest the Affidavit of John F.
11 Barlow, Captain United States Navy, (Ret.). Captain Barlow
12 admits in his Declaration, sworn before a Notary Public on
13 January 5, 1994, that he has no recollection of Mr. LeBrun's
14 case. He also admits that he would have had only marginal
15 involvement in such a case. It is extremely surprising to see
16 that Captain Barlow would swear under oath that he was
17 convinced that Mr. LeBrun's case was not one suitable for
18 resolution under the honor system. Without any knowledge of
19 the actual facts of Mr. LeBrun's case, Captain Barlow states
20 that the offense, for which Mr. LeBrun was charged, was
21 apparently a serious one. Captain Barlow further states that
22 it was not the policy to use the honor system in such cases,
23 and that the honor system was used in only less serious cases,
24 such as an individual looking at another midshipman's test
25 paper.

26 Such a statement is not only preposterous, but it is
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1 profoundly ludicrous. Captain Barlow obviously feels that it
2 was not an important offense for a midshipman to look at
3 another midshipman's test paper. For Captain Barlow to take
4 such a position, I would have to conclude that he had no
5 knowledge of the workings of the honor concept at the United
6 States Naval Academy during the time that I was a midshipman.
7 I can categorically state that the looking at another
8 midshipman's test paper was as serious an honor offense that
9 could exist. Not only does such conduct impugn the integrity
10 of the person committing the offense, but plagiarism is
11 considered one of the highest offenses of moral turpitude by
12 any institution of higher learning.

13 Captain Barlow's statement that when he reported to the
14 Naval Academy in 1965, the Academy was "still feeling its way"
15 with its honor system, is absolutely inaccurate. During my
16 entire four (4) years at the Naval Academy, I attended many
17 lectures, discussed the honor system with my classmates, and
18 at one time, was the honor representative for the Sixth
19 Company. I was intimately involved with the honor concept.
20 It was recognizable to everyone, and was constantly instilled
21 in the hearts and minds of all midshipmen by our superiors.
22 It was the ultimate sanctity within which each and every
23 midshipman governed his moral behavior. There was never
24 anything vague or ambiguous about it. It was important to
25 every midshipman, and it was always taught to be vital to the
26 existence of a naval officer, both in peacetime and in combat.

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1 I can unequivocally state that the honor concept was
2 never limited to cases of lesser importance, as Captain Barlow
3 contends in his Declaration. If anyone were truly to believe
4 that statement, such a person would be without knowledge of
5 the governing precepts of midshipmen life during the early
6 1960's.

7 While I was a class officer in my senior year at the
8 Naval Academy, I sat on the Honor Board and reviewed more than
9 a dozen honor violation cases that were submitted to the
10 committee. We made recommendations for both discipline and
11 discharge, depending on the severity of the offense. I took
12 my position on the honor board very seriously, and endeavored
13 to review every case with the utmost dignity and respect
14 afforded to the persons testifying before the committee. Open
15 hearings were held, testimony was taken, and recommendations
16 in writing were forwarded to the Commandant of Midshipmen,
17 depending on the nature of the offense being reviewed.

18 During that time, if a case such as the one brought
19 against Kenneth L. LeBrun had been truly reported in the
20 normal course of academics at the Naval Academy, I am certain
21 that that case would have been heard before the Honor
22 Committee. An allegation of falsifying a muster board would
23 strike at the absolute heart of the Honor System, and have
24 been of profound importance to all midshipmen, especially
25 those entrusted with the duty to review and enforce the Honor
26 Concept.

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1 At no time during my senior year at the Naval Academy was
2 I ever given any facts or any information regarding the
3 alleged violation of Kenneth L. LeBrun. His case was never
4 brought before the Honor committee, nor were we asked to
5 review the facts and circumstances leading to Mr. LeBrun's
6 resignation. Neither the Honor Committee, nor the brigade of
7 midshipmen were ever given any information or explanation
8 regarding the reasons behind Mr. LeBrun's discharge from the
9 Naval Academy. In fact, his discharge was so quiet and
10 abrupt, that it occurred during a three day period over the
11 semester break, when the senior midshipmen were given leave
12 from the Naval Academy. It was not until several days after
13 our return to Bancroft Hall following that break, that we
14 learned that Mr. LeBrun had been separated from the Naval
15 Academy. I was never given any personal information as to the
16 reasons behind the resignation of Mr. LeBrun. I find it
17 extremely hard to believe and very difficult to reconcile why
18 this particular case was never brought before the Honor
19 Committee.

20 I have concluded from my review of much of the
21 documentation, affidavits from various witnesses, and
22 correspondence regarding Mr. LeBrun's case, that there is a
23 great likelihood that there existed a misinterpretation by Mr.
24 LeBrun or the reasons behind the call for his resignation
25 during his final meeting with the Superintendent and
26 Commandant of Midshipmen.

1 I have also reviewed the Affidavit submitted by former
2 Commandant of Midshipmen, Rear Admiral Sheldon H. Kinney,
3 U.S.N. (Ret.). I have great respect and admiration for Rear
4 Admiral Kinney. He was the Commandant of Midshipmen during my
5 senior year at the Naval Academy. He was instrumental in the
6 recommendation to the Secretary of the Navy that I receive the
7 Navy Commendation Medal for saving a seaman from drowning in
8 the Chesapeake Bay on April 15, 1965. I subsequently received
9 that award on September 24, 1965 from the Secretary of Navy,
10 Paul H. Nitze.

11 I am not quite sure where Admiral Kinney received his
12 statistics regarding the "some 1100 major conduct offenses,"
13 about which he discusses in his affidavit. I am also not sure
14 whether or not he means there were allegations of that many,
15 or that actual misconduct offenses were adjudicated in that
16 amount. I do know that in our class of approximately 800
17 midshipmen, there were fewer than 50 major conduct violations
18 during our entire four years at the Naval Academy. I would be
19 quite surprised if there were a ratio of 1 in 8 midshipmen
20 accused of major conduct offenses throughout the brigade while
21 I was at the Naval Academy. There just was not a
22 proliferation of "Class A" offenses during that time, as
23 suggested by Admiral Kinney.

24 I believe that paragraph 2 on page 2 of Admiral Kinney's
25 declaration may misstate the actual facts about why Mr. LeBrun
26 was brought before the Superintendent and the Commandant for
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1 the alleged incident of fraud. It is my understanding that
2 Mr. LeBrun was accused of mismarking the evening muster board,
3 and not the midnight muster board, as stated in the Affidavit
4 of Admiral Kinney.

5 I am extremely surprised that Mr. LeBrun would have
6 resigned his position as a member of the class of 1966, unless
7 he were coerced and intimidated into such a resignation. It
8 appears to me that he did not have any legal representation
9 before the reviewing committee, and I am not completely
10 certain as to the exact reason why he was being forced to
11 resign.

12 The administration of the Honor Concept before our Honor
13 Committee in 1966 provided for due process, including the
14 right to representation during our hearing process. The
15 clandestine "one on one" meeting reported by Admiral Kinney
16 would seem to be certainly violative of due process, including
17 Mr. LeBrun's right against self incrimination, as guaranteed
18 in the Fifth Amendment to our Constitution. This would not
19 have happened before our honor committee.

20 Although we were not well schooled in juris- prudence, we
21 were wise enough to recognize the right of an accused to
22 remain silent, to confront and cross examine witnesses, to
23 have the right to fair representation by competent counsel,
24 and the right to have a fair an impartial tribunal decide his
25 case. If I have interpreted the facts of this incident
26 correctly, then possibly Midshipman LeBrun was deprived of the

1 essence of procedural due process and constitution guarantees.

2 If Mr. LeBrun's case had come before the Honor Committee,
3 in 1966, a prerequisite to a recommendation for discharge
4 would have been a finding of "intent" to alter a muster board.
5 I do not see in any of the documentation where intent was
6 proven in the alleged fraud case of Mr. LeBrun regarding any
7 of the muster boards.

8 Apparently, Admiral Kinney has no independent
9 recollection of having any meeting with Midshipman LeBrun,
10 relevant to his alleged misconduct. Admiral Kinney indicates
11 on paragraph 3, page 4, that it would be his purpose to
12 interview the midshipman in a private conference with the two
13 of them alone. I would agree with Admiral Kinney that the
14 submitting of a false muster board is a serious act. In a
15 naval context, accountability is one of the foremost concepts
16 that the commanding officer must rely upon. However, in this
17 case, I think there are significant facts that indicate that
18 no false muster board was actually submitted by Mr. LeBrun.

19 I believe that Kenneth L. LeBrun is entitled to a full
20 evidentiary hearing before the BCNR in order to decide whether
21 or not his military records are subject to correction. I am
22 also concerned that certain pieces of evidence have
23 infiltrated his records, namely an alleged "gay performance
24 evaluation" and a "fabricated class 'A' log" among others.
25 With these inconsistencies, it is quite possible that Kenneth
26 L. LeBrun may have suffered a grave injustice and may have

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been deprived of his basic right to due process while serving as a Midshipman at the Naval Academy in 1966.

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge. This affidavit is executed on this the 8 day of June, 1994, at Laguna Niguel, CA.

Robert G. Johnson, Jr., Esq.
ROBERT G. JOHNSON, JR., ESQ.

BOARD FOR CORRECTION OF NAVAL RECORDS

DEPARTMENT OF THE NAVY

In re: Petition of

**KENNETH L. LeBRUN
MIDSHIPMAN, CLASS OF 1966.****DOCKET NO.
4132-93**

TOWN OF WATERFORD)
 : SS.
STATE OF CONNECTICUT)

AFFIDAVIT OF JEROME T. MAHER JR.

Jerome T. Maher Jr., being duly sworn, deposes and says:

1. I am a resident of the State of Connecticut. I make this affidavit based upon my personal knowledge of **Kenneth L LeBrun's** character, I was his roommate for approximately one year, and I am a graduating member of the United States Naval Academy Class of 1966. I, also, submit this affidavit in support of the petition of **KENNETH L. LeBRUN** in which he seeks review and correction of his naval record.
2. I was a classmate and very close friend of **Ken LeBRUN** at the time of his departure from the U. S. Naval Academy. I first met **Ken LeBRUN** at the U. S. Naval Academy Preparatory School, Bainbridge Maryland. He and I were assigned as roommates for the nine months of the Preparatory School. As stated by our other classmates, his dismissal was one of the biggest shocks that occurred to our class. I am even more surprised to learn now that he might have been dismissed for something other than an Honor Offense. After reading the records that you provided **Ken LeBRUN**, seeing their

inconsistencies, and reviewing my other classmates statements, I felt it was necessary to submit this affidavit to you.

3. I wish to attest to four issues:
 - a) What I and the rest of the Brigade of Midshipman were led to believe was the reason for **KENNETH L. LeBRUN's** dismissal,
 - b) The inconsistencies of dismissals during the years of our class's presence at the U. S. Naval Academy,
 - c) My knowledge of **KENNETH L. LeBRUN's** character, and
 - d) The allegations of other misconduct, i.e., "**KENNETH L. LeBRUN** being gay."

4. I was told by Lt. Wilson, our Company Officer, and Joseph Taussig III, our Company Commander, that **Ken LeBRUN** was dismissed for an Honor Offense. The nature of the his Honor Offense was that he had falsified a "Muster Board." His roommate, Midshipman Dyer, could not be found and **Ken LeBRUN** had purposely held up taking the attendance report to locate his roommate. Upon receiving a telephone call stating that Dyer was in the hall, **KEN LeBRUN** marked him as "being present in his room." I was told that Dyer was caught by the U. S. Naval Academy Security Guard when he was trying to sneak back onto the grounds. Because **Ken LeBrun** had signed that Dyer was "present in his room", I was told he was dismissed for falsifying records.

When the attendance of the First Class (Seniors) was taken, full accountability of everyone in their rooms rarely, if ever, occurred. Any type of verbal communication or other classmate vouching for attendance was always accepted by the person taking the attendance. Therefore, it seemed very strange and inappropriate that **Ken LeBrun** was being dismissed for the reason given. Continued questioning of the Honor Committee Members, who could not by rules talk of cases, led me and the rest of my classmates to believe that **KENNETH L. LeBRUN** was being used as an example to all First Class, i.e., "If you don't follow the rules, you could be next."

5. In addition to an Honor Offense, there were two other types of common dismissals that occurred at the U. S. Naval Academy: academic and conduct. Both of these types of dismissals were inconsistently applied while I was at the Academy.

6. As stated in the opening of my disposition, I was Ken LeBrun's roommate at the U. S. Naval Academy Preparatory School. I continued to stay in contact with Ken LeBrun through our four years at the Academy and to present date. He always demonstrated the highest ideals and principals. He had a strong goal to graduate from the United States Naval Academy and was committed to excel in his endeavor. He, also, has always had a high regard for rules and authority, and rarely committed acts of misconduct. His character, his high ideals, and his fair play, coupled with his fine sense of humor and robust laugh, made him well liked by all his true friends and classmates. No one could have achieved the accomplishments that Ken LeBrun did (Class President, Company Commander, Brigade Boxing Champion) without exceptional character and hard work. I never personally saw him commit an act that was unbecoming of a U. S. Naval Academy Midshipman, especially, do anything that could or would result in is dismissal.

He always had a high regard for his classmates. At the Academy he was a leader, who everyone respected, because he participated with the team (his class). To do what I and his classmates were led to believe, i.e. to mark a classmate who was understood to be in the hall present, is totally within Ken LeBrun's character. To deliberately falsify a record, is not. Ken LeBrun's character and morale standards, as I knew him, would never allow him to intentionally deceive someone.

7. The last item that I would attest to is the Academy's reference to KENNETH L. LeBRUN'S sexual preference. The insinuation that Ken LeBrun was "gay" because he was quite and kept to himself is totally absurd. Ken LeBrun was that type of individual who had to have total concentration to study. Therefore, he would often isolate himself from others to get the quality time he needed to excel. As his roommate at the Prep School where the academics were extremely rigorous, I am totally aware of his study habits, also his sexual preference.

As enlisted sailors, Ken LeBrun and I frequently went on liberty together seeking "Wine, Women and Song." I, also, often took Ken LeBrun home to Baltimore on weekends. I introduced him to my now sister-in-law. With a little more help from cupid, Ken LeBrun could have been my brother-in-law.

At the Academy, I knew all most all of the young ladies, including my sister-in-law, that Ken LeBrun dated. After graduation, Ken LeBrun and I kept in touch. He visited my family and in-laws on several occasions. He has attended several of our class reunions, escorting members of the opposite sex. I was introduced by Ken LeBrun to his first and second wife. I visited their homes. Never was their any indication that anything but normal relations were taking place.

8. In closing, on behalf of KENNETH L. LeBRUN, the Class of 1966 and myself, it is requested that KENNETH L. LeBRUN'S dismissal be thoroughly investigated (records and affidavits) to ensure that he was fairly and justly treated. If the Board For Correction Of Naval Records, Department Of The Navy, cannot totally substantiate and justify Ken LeBrun's dismissal. It is only right that KENNETH L. LeBRUN be re-instated in the Class of 1966 and allowed to graduate.

Sworn to before me this
25th day of February, 1994

Larry J. Bevilacqua
Notary Public

LARRY J. BEVILACQUA
NOTARY PUBLIC
MY COMMISSION EXPIRES SEP. 30, 1998

Jerome T. Maher Jr.
Jerome T. Maher Jr
USNA 1966

PAUL ANDRUCHOW
57 ELM STREET
STOUGHTON, MA 02072
(617) 344-3584

February 3, 1994

Kenneth L. LeBrun
4 Hallock Meadow Drive South
Stony Brook, New York 11790


Dear Ken,

I continue to read with interest and sympathy the kindly provided documents of your sad saga. It reads like a soap opera, from my perspective, of entrenched "old boy" interests against a relatively innocent and surly injured party. Where is the truth? Who knows! There is always two sides to any story with both parties perceiving their position as true and correct or at least justified by some written or generally accepted standard.

Under the circumstances there is serious doubt on whether due process occurred those many years ago. I hope that you prevail. The Navy should just give it up without admitting guilt, grant your diploma, and move on.

Please be encouraged by my support. Continue to fight the good fight; I'm in your corner. GOOD LUCK!

Sincerely yours,



Paul Andruchow

BOARD FOR CORRECTION OF NAVAL RECORDS

DEPARTMENT OF THE NAVY

In re: Petition of
KENNETH L. LEBRUN,
MIDSHIPMAN, CLASS OF 1966

COUNTY OF MACOMB)
) ss.
STATE OF MICHIGAN)

AFFIDAVIT OF JAMES FLEMING

JAMES FLEMING, after first being duly sworn, deposes and says:

- 1. That KENNETH LEBRUN and I were roommates during Plebe Summer and Plebe Year.**

- 2. That throughout our years at the Academy he was often a guest in my parents' home in Cleveland, Ohio, during leave periods, as it provided a convenient "half-way" point for him between Annapolis and his family home in Minnesota.**

- 3. That Ken and I also drove across the country together in a rented car to San Francisco in June, 1965, on the way to our respective First Class cruises.**

4. That the statement in his Personal Evaluation, dated 4 February 1966, that he was a "loner with no girl or close friends" is not true. Ken and I double-dated often during these years. My fiancée at the time (now my wife of almost 28 years) can attest to this and the fact that he was always outgoing, friendly, and easy to like.

5. That he was involved in so many extracurricular activities speaks for itself.

6. That I never knew Ken's conduct to be anything but of the highest standards, both at the Academy and away, and it is inconceivable to me that he would commit any act that would violate his integrity or the Academy's Honor Code.

7. That while I did not know the details of the case at the time, I do recall that it had all been handled very quickly. I found dismissal particularly hard to understand as I was aware of several Honor Code violations in those years that had not resulted in dismissal. I recall specifically the case of Larry Kocisko, Class of '65, in a similar situation involving a false muster report. He received very severe punishment, but was not discharged.

8. That I also find it suspicious that a person who possessed a record of Personal Evaluations as fine as Ken's for almost four (4) years would suddenly be evaluated so differently. It appears contrived.

9. That there was then and now is no reservation in my mind that Ken is an honorable man.

10. That irreducibly stated "a great wrong has been done" and his record should be cleared.

FURTHER Affiant sayeth not.

JAMES FLEMING

Subscribed and sworn to before me
this ____ day of _____, 1994.

FRANK L. McNELIS, Notary Public
County of Macomb
My Comm. Exp.: 12/18/94

SIGNED COPY FORWARDED TO BCNR

28 June, 1993

Board of Corrections of Naval Records
Navy Annex
Washington, DC 20370-5000

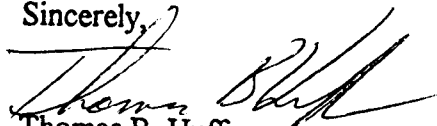
Gentlemen:

The attached affidavit is provided for possible assistance in your consideration of Midshipman Kenneth LeBrun's petition number 4132-93.

In addition to the facts stated therein, I knew Midshipman LeBrun personally for five years. I subjectively find it inconceivable that he would have committed an honor offense or any conduct offense worthy of expulsion from the U.S. Naval Academy. His departure was a shock to the entire company, and I have never had the reasons adequately explained to me.

I wish you the best of luck in determining the proper course of action. I suspect that a grave miscarriage of justice has occurred.

Sincerely,



Thomas B. Huffman

BOARD FOR CORRECTION OF NAVAL RECORDS
DEPARTMENT OF THE NAVY

-----X
In respect to: Petition of
Kenneth L. LeBrun,
Midshipman, class of 1966
-----X

: Docket No. 4132-93
:

City of Arlington
State of Virginia

AFFIDAVIT OF THOMAS B. HUFFMAN

Thomas B. Huffman, being duly sworn, deposes and says:

1. I am a resident of the State of Virginia. I make this affidavit based upon my personal knowledge. I submit this affidavit in support of the petition of Kenneth L. LeBrun in which he seeks the review and correction of his naval record.


2. Midshipman LeBrun and I were classmates in the U.S. Naval Academy class of 1966, and we were members of the 33rd company. During the winter of 1966 Midshipman LeBrun departed the Naval Academy under circumstances which were never explained by the administration to me or my close friends in the company. Since Midshipman Peter Able was involved in that untimely departure, and since an incorrect muster was involved, the following incident may have bearing on Mr. LeBrun's petition:

Midshipman Peter Able was a member of the class of 1966 in the 33rd company. This statement relates to the sense of personal honor of Midshipman Abel.

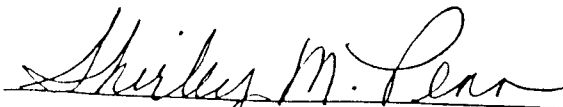
During all of our years at the academy, all midshipmen were required to attend all scheduled classes unless a valid waiver was granted for health, extra-curricular, or other approved reasons. During academic year 1965-66, the administration department used a policy of having each midshipman initial a muster list daily, which was submitted up the administrative chain weekly, indicating that the midshipman had attended his classes, or indicating the reason why not. As I remember it, these lists were maintained by squad, and the squad leader had to sign the list prior to the weekly submission.

Midshipman Peter Able was an unauthorized absentee from a particular class during one period when he was the designated person to sign the muster list. This put him in a position of having to either report his unauthorized skipping of class, or of signing a false muster report. He initialed that he had attended the class, and then signed the false muster report. My platoon leader administrative position at that time made me responsible for forwarding that muster list to the company/battalion staff for processing. I had knowledge of Midshipman Able's absence, and I saw his signature claiming that he had been present, so I made these facts known to the company honor representative, Midshipman Ed Ohlert. An honor offense investigation was subsequently initiated.

Since honor offenses were handled very privately, I do not personally know if that honor offense was the main reason for Midshipman Able's eventual departure from the Academy. I do know that he left the Academy at the end of the spring semester, right before the graduation ceremony, and that he did not receive his commission.


Thomas B. Huffman

Sworn to before me this 28th day of June, 1993


Notary Public

My Commission Expires April 30, 1994

K. O. ENGINEERING SERVICES, INC.

P.O. BOX 170
GREEN VILLAGE, NJ 07935

(201) 765-0337 FAX: (201) 267-9728

September 30, 1993

Dear Ken,

I received your package of information back in May, but I did not respond because I had nothing substantive to contribute.

I am absolutely stunned by the whole story. I remember that one day you were with us and the next you were gone. No explanation was ever given, except some vague comment about an honor violation.

Unfortunately all I feel able to do is to cheer you on in your efforts to correct what appears to be a most regrettable situation. If you can refresh my memory on any detail or circumstance which could benefit your efforts, I would certainly help in any way.

I would also be interested in learning what you have been doing in the last 27 years for employment, etc. I certainly consider you a classmate as you endured the whole process with us.

Good luck! I encourage you to write if you possible have the time.

Sincerely

Dick Olson

BOARD FOR CORRECTION OF NAVAL RECORDS
DEPARTMENT OF THE NAVY

In re: Petition of)
Kenneth L. LeBrun) Docket No. 4132-93
Midshipman, U.S. Naval Academy, Class of 1966)

District of Columbia, ss:

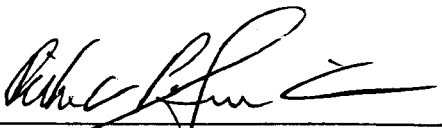
AFFIDAVIT OF RICHARD P. SNAIDER

Richard P. Snaider, being duly sworn, deposes and says:

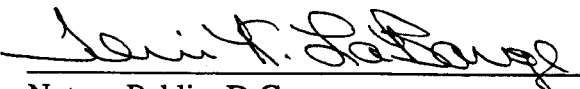
1. I am a resident of the State of Virginia. I make this deposition based on my personal knowledge. I submit this affidavit in support of the petition of Kenneth L. LeBrun to correct his naval record.
2. I was a member of the 33rd Company with Ken, and had been his roommate during our second class year. Although I was serving on the Brigade staff at the time of the alleged incident that resulted in his dismissal, I recall my own thoughts that allegations of falsification of records on Ken's part were totally inconsistent with the honorable person I knew. As class president during our second class year, Ken had been a member of the Honor Committee and was thus steeped in the code that we had agreed to live by. To this day I refuse to believe that Ken would never have done anything to violate that code.
3. I have read the information recently provided to Ken from the archives of the Academy. Included in the records were two Midshipman Personal Evaluation Summary Reports that were written after the fact in what appears to have been an ill-disguised attempt to justify Ken's dismissal. As such, they comprise a body of information that departs significantly from the reality that I knew. For Ken to be called a "poor leader" and a "loner with no girl or close friends" flies in the face of the facts. One simply does not get elected as President of his class at the Naval Academy by exhibiting those attributes.
4. Examining other information provided from the files leads me to believe that the process leading to Ken's dismissal deprived him of even the basic rights that we had as midshipmen. The alleged falsification of the muster board would normally have been treated as an honor offense, and thus would have been pursued through the Midshipman Honor Committee. Had Ken's alleged offense been a conduct violation, Ken would have at most been subjected to the penalties of a "Class A" offense, the results of which would have fallen short of dismissal. Instead, Ken

seems to have been subjected to rapid and summary disposition by senior Academy officials using their own set of punitive rules. In short, this appears to have been a "kangaroo court" whose sole objective, for whatever reason, was to oversee Ken's dismissal from the Academy.

5. Ken is seeking no more than to have his name cleared from the stigma attached to this apparent injustice. I believe that the Navy and the Naval Academy owe him that much.


Richard P. Snader

Subscribed and sworn to before me this 8th day of March, 1994.


Notary Public, D.C.

TERRI K. LaBARGE
Notary Public, District of Columbia
My Commission Expires April 30, 1996

BOARD FOR CORRECTION OF NAVAL RECORDS

DEPARTMENT OF THE NAVY

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In re: Petition of :
Kenneth L. LeBrun, : Docket No. 4132-93
Midshipman, Class of 1966. :

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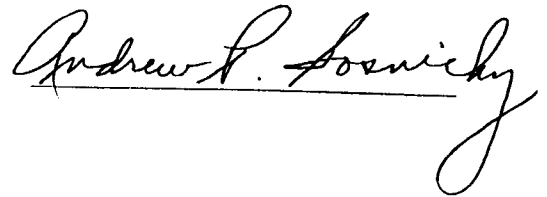
CITY OF AURORA)
: ss.
STATE OF COLORADO)

AFFIDAVIT OF ANDREW P. SOSNICKY

Andrew P. Sosnicky, being duly sworn, deposes and says:

1. I am a resident of the state of Colorado. I make this affidavit based upon my personal knowledge. I submit this affidavit in support of the petition of Kenneth L. Lebrun in which he seeks the review and correction of his naval record.

2. Mr. Lebrun had a reputation of being one of the leaders of our class. I remember him appearing to personify the best standards of honor and discipline desired in a midshipman. With respect to his dismissal, I recall being mystified at the time for the following two reasons: (1) The alleged honor offense was totally out of character; (2) He was suddenly gone, with no apparent standard due process for either a conduct offense or an honor offense.



Sworn to before me this
28th day of June, 1993


Notary Public

PHYLLIS A. BERG
Notary Public, State of Colorado
County of Arapahoe
My Commission Expires Feb. 14, 1994