



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

MEH:mh

Docket No: 7322-98

25 May 1999



Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 May 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 5420 Ser N130D/065-99 of 20 April 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, DC 20350-2000

IN REPLY REFER TO
5420
Ser N130D/065-99
20 APR 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (NPC-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF [REDACTED]
[REDACTED], EX-USN, [REDACTED]

Ref: (a) DOD 7000.14-R, Financial Management Regulation
(b) MILPERSMAN
(c) U.S. Code Title 37 §308
(d) OPNAVINST 1160.6A

Encl: (1) BCNR File #07322-98 with microfiche service record

1. The following provides comments and recommendations on former Petty Officer [REDACTED] petition.

2. Mr. [REDACTED] requests repayment of \$10,767.42, reportedly the amount of Selective Reenlistment Bonus (SRB) recouped at his discharge, and payment of the remaining SRB installment(s) of \$3090.22. N130D recommends deny Mr. [REDACTED] petition.

3. On 28 November 1997, then Petty Officer [REDACTED] was honorably discharged from the Navy with the Separation Program Designator (SPD) code 'HCR', defined as weight control failed. Reference (a) (section 090403, subparagraph 'n') states that discharge for convenience of the government relating to overweight/obesity or physical fitness is reason for recoupment of reenlistment bonus. Reference (b) states that determination of recoupment will be made as directed by the Chief of Naval Personnel in cases of administrative separations for the reason of convenience of the government.

4. Petty Officer [REDACTED] reenlisted into the Navy on 02 March 1995. In October 1997 following his third consecutive PRT failure, Navy processed him for administrative discharge for failure to remain within weight control standards. Petty Officer [REDACTED] weight control problems began in 1996 when he failed his first PRT. At that time he was enrolled into the command's supervised remedial PRT education and training program; he also received counseling and signed a notification that he understood the consequences of failing to reach and maintain Navy health and PRT standards. Following the third consecutive PRT failure,

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF [REDACTED]
[REDACTED], EX-USN, [REDACTED]

Petty Officer [REDACTED] was honorably discharged for failing to meet established weight (body fat) standards; with a reenlistment classification code "RE-3T" (eligible to reenlist except for disqualification due to obesity). Petty Officer [REDACTED] lack of initiative to comply with physical readiness standards (a voluntary action on his part) made him unfit for further Naval service, and resulted in his discharge.

5. The congressional intent of SRB is to encourage service members to reenlist in a critical specialty, and serve within that specialty for the full period of reenlistment. Because SRB is paid in advance of actual service, reference (c) requires a member who does not complete the term of enlistment for which bonus was paid to refund the unearned (pro rata) portion of the bonus. Because Mr. [REDACTED] could not complete the terms of his contract for which bonus was paid, in accordance with references (a) through (d) recoupment is required. In this particular case, there are no extenuating circumstances that warrant waiver from Department of Defense and Navy policy.

6. BCNR case file with microfiche service record is returned herewith as enclosure (1).



Head, Enlisted Bonus
Programs Policy Section