



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

LCC:ddj
Docket No: 4348-01
21 August 2001

[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 21 August 2001. 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 5730 PERS 913C1 of 31 July 2001, 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
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5730
PERS 913C1
31 Jul 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR ADVISORY OPINION IN THE CASE OF FORMER MEMBER
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Ref: (a) PERS 00ZCB Memo of 13 Jun 01
(b) BUPERSINST 1001.39D
(c) COMNAVRESFORINST 1740.1A

Encl: (1) BCNR File 4348-01

1. Per reference (a), enclosure (1) is returned with the following recommendation and comments:

a. Recommend disapproval of SK2 Mattingly's request to be awarded separation pay.

b. ██████████ Mattingly is seeking a "lump sum" separation benefit, under the provisions of the Reserve Transitions Benefit (RTB) program, based on his service in the Naval Reserve for a period of more than 16 but less than 20 years.

c. Per references (b) and (c), the RTB program provides specific benefits for Selected Reservists involuntarily separated from the Naval Reserve during the RTB program period (23 October 1992 to 31 December 2001). Basic eligibility requirements for RTB benefits are:

(1) The member has been a Selected Reservist for at least a year and,

(2) The member is involuntarily removed from a paid billet and not offered a further paid assignment. This provision includes removal from a paid billet because of High Year Tenure (HYT).

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d. The type of RTB benefit is based on years of service. Selected Reservists who have completed more than 6 but less than 15 qualifying years of service are eligible for separation pay. Reservists with more than 15 but less than 20 qualifying years of service are eligible for retired pay at age 60.

e. [REDACTED] states he left the Naval Reserve because of High Year Tenure (HYT) and is therefore entitled to (RTB). However, the documentation submitted does not reflect an involuntary transfer from a pay status because of HYT. Records reflect that he voluntarily elected to terminate his Selected Reserve status in February 1999 because of "work conflict and family matters." He would not have been subject to involuntary HYT action until 31 December 1999. Additionally, with over 16 years of service, SK2 [REDACTED] would not have been eligible for separation pay even if he had been eligible for RTB benefits. If eligible for RTB, SK2 [REDACTED] would have been eligible for retired pay at age 60.

f. Accordingly, there is no indication of an error or injustice in SK2 [REDACTED] case. If he has additional information that substantiates an involuntary removal action, or another error or injustice, we will support reconsideration of his request for appropriate RTB benefits. If SK2 [REDACTED] meets current recruiting requirements, he may also apply for reenlistment in the Naval Reserve. Reenlistment would provide him with the opportunity to earn a reserve retirement upon completion of 20 years of qualifying service. He should be directed to contact his nearest Naval Reserve recruiter to determine his eligibility to reenlist, if he desires to pursue this option.

2. Additional questions may be directed to PNC [REDACTED] at (901)874-4508 or DSN 882-4508.

[REDACTED]

By direction