



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

MEH:ddj
Docket No: 7034-00
30 October 2001

[REDACTED]

[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 30 October 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 NPC memorandum 5420 PERS-9 of 2 October 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

5420
PERS-9
2 OCT 01

MEMORANDUM FOR EXECUTIVE DIRECTORS, BOARD FOR CORRECTION OF
NAVAL RECORDS (PERS-00ZCB)

Subj: RESPONSE TO REQUEST FOR COMMENTS ICG, [REDACTED]
[REDACTED]

Ref: (a) PERS-00ZCB LTR of 15 AUG 01
(b) PERS-92 LTR of 14 Dec 00
(c) Attached BCNR Files

1. Per reference (a) the following information and comments are provided as background information for use in formulating a decision:

a. [REDACTED] is requesting an official change to his DD-214 to reflect an ending date of involuntary PRC orders to 25 Mar 1998. As stated in reference (b) the DD-214 is appropriately completed and accurately reflects periods of voluntary and involuntary recall. The remarks section of the DD-214, as shown in reference (c), accurately indicate that the member was voluntarily extended on active duty beyond 1 Mar 1998 in order to use accrued leave. Furthermore, the DD-214 was signed by CDR [REDACTED] which acknowledged his agreement with the contents of the document. This document is accurate as written; there is no legal reason to change it.

b. By law (USC 12304) reservists cannot be involuntarily retained beyond 270 days in support of a contingency operation. For this reason members were provided their choice of either selling accrued leave (normal 60 day career limit was waived) or voluntarily extending for the purpose of taking pre-separation leave as stated in reference (b). [REDACTED] chose to be voluntarily retained on active duty past the 270-day recall period for leave purposes.

c. [REDACTED] wishes to have his DD-214 changed in order to exempt him from a debt which resulted from

Subj: RESPONSE TO REQUEST FOR COMMENTS ICO [REDACTED]

overpayment of the Ready Reserve Mobilization Income Insurance Program (RRMIIP). The RRMIIP paid CDR [REDACTED] \$5,000 a month for his time in an involuntary recall status as designed. However, [REDACTED] was also incorrectly paid for 25 days while in a voluntary status for leave purposes for a total of \$4,166.67.

d. LCDR [REDACTED] has rechecked his records which indicate he did indeed contact CDR [REDACTED] in April of 1999 to inform him of the RRMIIP overpayment.

2. Recommendations:

a. Do not alter the DD-214. It should be left as is in the official record as executed and dated 1998 March 25.

b. [REDACTED] should not be relieved of the payback obligation for the overpayment.

3. My POC for this matter is LCDR [REDACTED] at Comm: (901) 874-4520 or DSN: 882-4520.

[REDACTED]

Captain, U. S. Naval Reserve
ACNDC for Naval Reserve
Personnel Management