



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

HD:hd
Docket No: 08516-00
13 July 2001

m

[REDACTED]

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 12 July 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 opinions furnished by the Navy Personnel Command dated 14 February and 16 and 22 March 2001, copies of which are attached. The Board also considered your letter dated 2 July 2001.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice.

The Board found that your failures by the Fiscal Year 94 and 95 Naval Reserve Line Lieutenant Commander Selection Boards should stand. They found your selection would have been definitely unlikely, even if your fitness report record had been complete for the period 21 August 1991 to 12 May 1993. In this regard, they noted that the reporting senior for this period stated, in his letter of 8 December 2000, that you were unable to drill during much of this period. Further, they were unable to find that your medical condition precluded you from having somebody else check your record for completeness. Since the Board found insufficient basis to remove your failures of selection to lieutenant commander, they had no grounds to set aside your discharge from the Naval Reserve on 31 December 1994 or grant you a special selection board.

In view of the above, 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

Enclosures

4516-00



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

1611

PERS-311

14 February 2001

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

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: EX-1 [REDACTED], USN [REDACTED]

Ref: (a) NAVMILPERSCOMINST 1611.1A NAVY OFFICER FITNESS REPORT (FITREP) MANUAL

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the fitness report provided with his petition be included in his record.

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

a. The fitness report provided with the member's petition covers the period from 21 August 1991 to 12 May 1993. The report is not suitable for filing as it was not submitted per reference (a), the instruction in effect at the time of the report. The report covers a period of over twenty months. The maximum number of months a report could be extended was two months. The report was also submitted on the wrong fitness report form, the member's Physical Readiness code (PRT) was improperly entered, and summary group is missing.

b. It has been over six years since [REDACTED] honorably discharged. Reference (a), Chapter 15 contains the responsibilities and rights of officers. Chapter 15, paragraph 15-1 states; "Each officer is responsible for ensuring the continuity of his/her own fitness report record." Paragraph 15-5 states; "All officers should periodically review their official microfiche records. If eligible for consideration by a selection board, this review should be completed at least six months prior to the convening date to allow time for correction of discrepancies." Paragraph 15-7 states; "Missing fitness reports do not disqualify an officer before a selection board, but can make the work of the board more difficult. As a minimum, an officer should attempt to replace any missing reports covering significant duty within the past five years." Paragraph 15-10 outline an officer procedure to communicate with selection boards.

c. We are in the process of returning the fitness report to [REDACTED], for correction and resubmission with the correct fitness report form.

3. We recommend the member's record remain unchanged.



Head, Performance
Evaluation Branch

8516-00



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS-86

16 MAR 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF
LIEUTENANT [REDACTED] USNR, [REDACTED]

Ref: (a) NAVMILPERSCOMINST 1611.1A Navy Officer Fitness Report
(FITREP) Manual

Encl: (1) BCNR File 08084-00 w/Service Record

1. We are returning enclosure (1) with the following observations and recommendation that Lieutenant [REDACTED] requests to have his honorable discharge vacated, the reinstatement of his rank at the time of his honorable discharge, and a Reserve Lieutenant Commander special board be denied.

2. Lieutenant [REDACTED] asserts that his failure of selection to Lieutenant Commander by the FY-94 and FY-95 Naval Reserve Unrestricted Line Selection Board was a direct result of his military record not having fitness report coverage from 21 August 1991 through 12 May 1993. Specific reasons for the failure of select are not available because selection board proceedings are sensitive in nature and records of deliberations are not kept. Based on our experience a record with a period of nearly two years of fitness reports missing will not be as competitive as the more complete records. As stated in reference (a), chapter 15, each officer is responsible for ensuring the continuity of his/her own fitness report record. Chapter 15 of reference (a) further states that all officers should periodically review their official microfiche records. If eligible for consideration by a selection board, this review should be completed at least six months prior to convening date to allow time for correction of discrepancies. It is an individual officer's responsibility to show due diligence to ensure his/her record is accurate and current before a selection board convenes.

3. In addition, our records indicate that [REDACTED] was transferred to the Reserve Inactive Status List and discharged on 31 December 1994.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF
LIEUTENANT [REDACTED] USN [REDACTED]

4. Lieutenant [REDACTED] be justifiably proud of his record and years of contributions; the negative response to his petition does not detract from his honorable service to this nation and the United States Navy.

[REDACTED]

Director, Reserve Officer
Promotions, Appointments, and
Enlisted Advancement Division



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS-911
22 Mar 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
FORMER I [REDACTED]

Ref: (a) BCNR memo 5420 PERS-OOZCB of 16 Feb 01

Encl: (1) BCNR File No. 08516-00

1. Per reference (a), enclosure (1) is returned with the recommendation that former [REDACTED] petition be denied. Former [REDACTED] is requesting to have his honorable discharge vacated, his rank at the time of his honorable discharge reinstated, and a special promotion selection board.

2. A review of former [REDACTED] record reveals that he was commissioned a Naval Reserve officer on 7 August 1984 and drilled in the Naval Reserve until June 1991 earning six years of qualifying service. Our records then show a two-year period of non-participation. In June 1993, he returned to a drilling status, earning one more year of qualifying service before being honorably discharged on 31 December 1994. During his 10 years as a Ready Reservist, he earned seven years of qualifying service towards a non-regular retirement.

3. All members of the Ready Reserve are required by law to be considered by Promotion Boards regardless of level of participation. It is ultimately the individual officer's responsibility to be aware of his status and eligibility for promotion, and to plan accordingly. Former [REDACTED] was correctly considered by the FY-94 and FY-95 promotion selection boards and failed of selection for promotion on each occasion. Specific reasons for his non-selection are not available, as board deliberations are confidential in nature and records are not kept. We can only surmise that his record was not competitive when compared with other eligible candidates when

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FORMER [REDACTED]

viewed within the numerical constraints placed on selection boards.

4. Per the applicable section of law at the time, Title 10, U.S. Code, Section 6389, a lieutenant who had at least twice failed of selection and had completed the eight-year military service obligation must transfer to the Retired Reserve, if eligible, or be honorably discharged. We notified former LT [REDACTED] 1994 that he had become subject to the attrition provisions of law and, because he had not earned 20 years of qualifying service he would be honorably discharged him from the Naval Reserve on 31 December 1994. There was no provision of law or policy that allowed waiver of this requirement.

5. Former [REDACTED] honorable discharge was a requirement of law. Unless his two failures of selection for promotion are removed he is ineligible for return to the Naval Reserve. We find no error or injustice in this case and therefore recommend his petition be denied.

6. If you have further questions, please contact [REDACTED]
PERS-911 [REDACTED]

[REDACTED]

Director, Naval Reserve Personnel
Administration Division