



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

HD:hd
Docket No: 08509-00
6 April 2001

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: EX-L [REDACTED], CHC, USN [REDACTED],
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 30 Nov 00 w/attachments
(2) PERS-911 memo dtd 25 Jan 01
(3) PERS-86 memo dtd 19 Mar 01
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing his failures of selection by the Fiscal Year (FY) 00 and 01 Naval Reserve Staff Lieutenant Commander Selection Boards, so he may return to active duty in fall 2001.

2. The Board, consisting of Messrs. Chapman, Shy and Zsalman, reviewed Petitioner's allegations of error and injustice on 5 April 2001, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's DD Form 214 ("Certificate of Release or Discharge from Active Duty") shows that his last day of active duty was 28 September 1996, and that he was released from active duty by reason of completion of required service. He was discharged from the Naval Reserve on 1 April 2001 by reason of his two failures of selection to lieutenant commander.

c. In correspondence attached as enclosure (2), PERS-911, the Navy Personnel Command (NPC) office having cognizance over Naval Reserve personnel administration matters, has commented to the effect that Petitioner's request has merit. They recommend that his record be changed to reflect a resignation and discharge from the Naval Reserve

effective 1 October 1996. They state that this action will bring about the removal of both failures of selection from his record, reduce his commissioned service to the period of active duty only, and enable him to return to active duty or to the Ready Reserve as a chaplain. They say the only action required of Petitioner to return to active duty or the Ready Reserve, if this correction is approved, is to request a Naval Reserve commission and submit a Ready Reserve service agreement to PERS-911 via a reserve officer programs recruiter.

d. In correspondence attached as enclosure (3), PERS-86, the NPC office having cognizance over reserve promotions, concurred with enclosure (2) and recommended removal of Petitioner's failures of selection for promotion.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) and (3), the Board finds the existence of an injustice warranting correction of Petitioner's record to show that he resigned on his last day of active duty and that he has not failed of selection for promotion.

The Board notes that according to the DD Form 214, Petitioner's last day on active duty was 28 September 1996, so the appropriate action to reduce his commissioned service to the period of active duty only would be to show he resigned on that day, rather than 1 October 1996, the date proposed by PERS-911. They find that Petitioner would not have failed of selection for promotion, nor would he have been discharged on 1 April 2001, had he resigned on 28 September 1996.

In view of the above, the Board directs the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that when he completed active duty on 28 September 1996, he was discharged pursuant to resignation of his Naval Reserve commission; and that his DD Form 214 be corrected accordingly as follows:

(1) Block 23 ("Type of Separation"): Change from "RELEASED FROM ACTIVE DUTY" to "DISCHARGED."

(2) Block 25 ("Separation Authority"): Change from "MILPERSMAN [Naval Military Personnel Manual] 3620150" to "SECNAVINST [Secretary of the Navy Instruction] 1920.6A."

(3) Block 26 ("Separation Code"): Change from "MBK" to "FBK."

(4) Block 28 ("Narrative Reason for Separation"): Change from "COMPLETED REQUIRED SERVICE" to "COMPLETED REQUIRED ACTIVE SERVICE."

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b. That his record be corrected further to show he did not fail of selection by the FY 00 and 01 Naval Reserve Staff Lieutenant Commander Selection Boards, and that he was not discharged from the Naval Reserve on 1 April 2001, but has had no status in the Naval Reserve since completing active duty on 28 September 1996.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

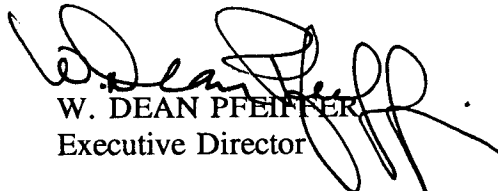
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director



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

5420
Pers-911
25 Jan 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS I/O
[REDACTED] BCNR [REDACTED]

Encl: (1) BCNR memo 5420 Pers-00ZCB of 23 Jan 01

1. Enclosure (1) is returned with the following comments and recommendations concerning [REDACTED] case.

2. Based on the information in [REDACTED] petition, we agree that his superior officers provided inaccurate or inadequate information regarding his status before beginning his mission to Canada. Had his superior officers provided the correct advice, i.e. resignation and discharge, and had he followed this advice his record would have not been placed before any selection boards. Also, he would have not been processed for separation for having twice failed of selection for promotion.

3. We recommend that [REDACTED] record be changed to reflect a resignation and discharge effective 1 October 1996 and that he remain in that status to date. This action will result in the removal of both failures of selection from his record, reduction in commissioned service to the period of active duty only, and ability to return to active duty or to the Ready Reserve as a Chaplain. The only action required of [REDACTED] to return to active duty or the Ready Reserve is to request a commission and submit a Ready Reserve Service Agreement to this office via a Reserve Officer Programs Recruiter. If his petition is approved, PERS-911 will direct that his reserve participation point capture record be updated to reflect this change in status.

4 Point of contact in this matter [REDACTED] at DSN [REDACTED] Commercial ([REDACTED])

[REDACTED]

Director, Naval Reserve Personnel
Administration Division



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

5420
PERS-86

19 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

[REDACTED]

Ref: (a) BCNR memo 5420 PERS-00ZCB of 25 JAN 01
(b) SECNAVINST 1401.1B

Encl: (1) BCNR File 08509-00 w/Service Record

1. Per reference (a) we are returning enclosure (1). The member requests the removal of his two failures to select from the FY-00 and FY-01 Lieutenant Commander Staff Corps Promotion Selection Boards. Based on our observations we concur with the opinion rendered by PERS-911 and recommend that you approve Lieutenant [REDACTED] request and remove his fails of select for FY-00 and FY-01.

[REDACTED]

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