



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

JLP:ddj
Docket No: 8243-02
14 January 2003

[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 14 January 2003. 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 CNO memorandum 5420 Ser N133D/000323 of 13 December 2002, 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
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO
5420
Ser N133D/000323
DEC 13 2002

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

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

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF
[REDACTED]

Ref: (a) SECNAVINST 7220.80E

Encl: Docket Number 08243-02

1. Forwarded, recommending disapproval.
2. On 29 January 2002, Petty Officer [REDACTED] reached his 12 Year Submarine Career Screening Gate (YRGT) date based on his Submarine Service Entry Date (SSED) of 29 January 1990. His CONSUBPAY stopped on 8 February 2002. He earned 68 months Total Operational Submarine Service (TOSS) by January 2002, four months short of the required 72 months TOSS. Per reference (a), entitlement to CONSUBPAY stops at this point for any submarine Sailor who did not have at least 72 months of TOSS upon reaching his 12 YRGT.
3. Petty Officer [REDACTED] claims he is only one month of TOSS short for his 12 YRGT. The Enlisted Master Record (EMR) shows 67 months TOSS and after conducting a TOSS audit IAW Ref (a) on his career, his actual total TOSS is 68 months. Member made the choice to shorten his PRD on the USS Newport News (SSN 750) from May 2002 to May 2001 for Recruiting Duty Sea Credit. He chose to transfer to shore duty early even after being counseled by Pers 403CM that he would miss his 12 YRGT as indicated in the Enlisted Master Record Notes Page.
4. A thorough review of his career history indicates that he did not have sufficient TOSS for continued entitlement to CONSUBPAY. Reference (a) explicitly disallows waivers for insufficient TOSS.

[REDACTED]
Submarine Pay
Program Manager