



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE ROAD, SUITE 1001

ARLINGTON, VA 22204-2490

HD:hd

Docket No. 04163-11

19 January 2012

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 17 Mar 11 w/attachments
(2) COMNAVRESFORCOM e-mail dtd 26 Sep 11 w/attachments
(3) PERS-803 memo dtd 28 Nov 11

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show he was not transferred to the Individual Ready Reserve (IRR) in February 2005. He also requested making good, in terms of retirement, promotion, selection and advancement, all years affected by his transfer to the IRR. Finally, he requested consideration for advancement to pay grade E-9 by a special selection board (SSB) for Fiscal Years 2005 through 2011; and SSB consideration for appointment as a warrant officer.

2. The Board, consisting of Messrs. Exnicios, Pfeiffer and Zsalman, reviewed Petitioner's allegations of error and injustice on 19 January 2012, 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 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. In enclosure (2), the Commander, Naval Reserve Forces Command commented to the effect that Petitioner was transferred to the IRR in violation of applicable directives.

c. In enclosure (3), the Navy Personnel Command (NPC) office with cognizance over enlisted advancements has commented to the effect that a recommendation regarding SSB consideration cannot be determined until adjudication of Petitioner's request for correction of his record to show he was not transferred to the IRR.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an error and injustice warranting partial relief, specifically, correction of Petitioner's naval record to show he was not transferred to the IRR in February 2005. The Board is not prepared to award Petitioner retirement point credit he did not earn, as his transfer to the IRR did not make him ineligible to earn such credit. The Board finds he may submit, to NPC, a separate request for SSB consideration for advancement and appointment to warrant officer on the basis of the correction of his record to show he was not transferred to the IRR. In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show he was not transferred to the IRR in February 2005.


b. 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.

c. 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.

d. That the remainder of Petitioner's request be denied.

4. 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.



For W. DEAN PFEIFFER
Executive Director