



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

HD:hd
Docket No: 03945-99
28 February 2000

[REDACTED] USNR
[REDACTED]

Dear Lieutenant [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.

You requested that your pay entry base date (PEBD) be changed from 5 July 1986 to 24 February 1983, which would reflect service as an enlisted member of the Naval Reserve while simultaneously enrolled in the Naval Reserve Officer Training Corps (NROTC) Scholarship Program. You further requested removal of the fitness report for 15 January to 11 May 1998, leaving in the record the fitness report for 15 January to 31 October 1998.

The Navy Personnel Command (NPC) has administratively changed the fitness report for 15 January to 31 October 1998 to begin 12 May 1998.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 February 2000. 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 NPC dated 24 August and 24 November 1999, copies of which are attached. The Board also considered your letter dated 11 January 2000.

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 opinions. The Board was unable to find you were incorrectly ordered to the unit from which you received the contested "not observed" fitness report for 15 January to 11 May 1998. 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.

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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



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

3945-99

5420
PERS-911
24 Aug 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
LT [REDACTED] USNR, [REDACTED]

Ref: (a) BCNR memo 5420 PERS-OOZCB of 23 Aug 99
(b) Public Law 104-21 Section 507 of 23 Sep 96
(c) 10 U.S.C. 10143
(d) 10 U.S.C. 10147
(e) BUPERSINST 1001.39C (Chapter 1, paragraph 103.1b)

Encl: (1) BCNR File No. 03945-99

1. Per reference (a), enclosure (1) is returned with the recommendation that [REDACTED]'s petition requesting a change to his Pay Entry Base Date (PEBD) to reflect service as an enlisted member of the Naval Reserve while simultaneously enrolled in the Naval Reserve Officer Training Corps (NROTC) scholarship program be denied.

2. Reference (b) amended the applicable sections of United States Code regarding this matter. Specifically Title 10, U.S. Code, Sections 2106(c) and 2107(g), and Title 37, U.S. Code, Section 205(d) were amended and read as follows:

a. Title 10, U.S. Code, Section 2106(c) - "In computing length of service for any purpose, an officer appointed under this section may not be credited with enlisted service for the period covered by his advanced training, other than any period of enlisted service performed on or after August 1, 1979, as a member of the Selected Reserve."

b. Title 10, U.S. Code, Section 2107(g) - "In computing length of service for any purpose, an officer appointed under this section may not be credited with service either as a cadet or midshipman or concurrent enlisted service other than

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICC [REDACTED]
[REDACTED] SNR, [REDACTED]

concurrent enlisted service performed on or after August 1, 1979, as a member of the Selected Reserve."

c. Title 37, U.S. Code, Section 205(d) - "Notwithstanding subsection (a), a commissioned officer may not count in computing basic pay a period of service after October 13, 1964, that the officer performed concurrently as a member of the Senior Reserve Officer' Training Corps, except for service that the officer performed on or after August 1, 1979, other than for training as an enlisted member of the Selected Reserve may be so counted."

3. Current law provides that officers appointed under Sections 2106 or 2107 of Title 10, U.S. Code may only be credited with enlisted service if they were members of the Selected Reserve. Reference (c) provides that the Selected Reserve consists of units and members as designated by the Secretary concerned, trained as prescribed by Section 10147 of Title 10, U.S. Code or Section 502(a) of Title 32, U.S. Code as appropriate. Per reference (d) a member of the Selected Reserve is required to participate in at least 48 scheduled drills or training periods each year. Also per reference (d) they must serve on active duty for training not less than 14 days (exclusive of travel time) or serve on active duty for training not more than 30 days during each year. Per reference (e) the Department of the Navy defines Selected Reserve as reserve members who are assigned to Full Time Support (active duty) positions, who drill for pay, or who serve on extended Active Duty for Special Work or Active Duty for Training.

4. [REDACTED] record indicates that he was not a member of the Selected Reserve while he was enrolled in the NROTC scholarship program and is therefore not entitled to service credit for that period.

5. My point of contact [REDACTED], at [REDACTED] (900) [REDACTED]

[REDACTED]

Director, Naval Reserve Personnel Administration Division



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

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1610
PERS-311
24 November 1999

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

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

Sub: [REDACTED], JR., [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his fitness report for the period 15 January 1998 to 11 May 1998 leaving in his record the fitness report for the period 15 January 1998 to 31 October 1998.

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

a. A review of the member's headquarters record revealed the fitness reports in question to be on file. The fitness report for the period 15 January 1998 to 11 May 1998 is not signed, however the fitness report for the period 15 January 1998 to 31 October is signed by the member acknowledging the contents of the report and his right to submit a statement. The member did not desire to make a statement.

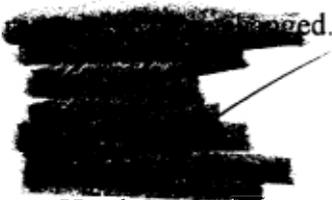
b. The fitness report for the period 15 January 1998 to 11 May 1998 is a Not Observed Detachment of Individual/Regular report signed [REDACTED]. [REDACTED] did not regularly drill with the unit, he was still attached to the command. The regular reporting senior retains the responsibility to ensure all periods are covered.

c. The fitness report for the period 11 January 1998 to 31 October 1998 is a Periodic/Regular report signed [REDACTED]. The period 15 January 1998 to 11 May 1998 is already covered by a different reporting senior, therefore, the beginning date of this report should be 12 May 1998. We have administratively changed the report to reflect the correct start date to 12 May 1998.

d. Further review of the member's record revealed the fitness report for the period 8 August 1997 to 14 January 1998 missing from his record. If the member will forward the report we will file it in his digitized record and OSR.

" e. The member does not prove the report to be unjust or in error.

3. We recommend the member's [REDACTED] ed.



Head, Performance
Evaluation Branch