



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

HD:hd
Docket No: 00451-01
17 August 2001

LT [REDACTED] USNR
[REDACTED]
[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 lieutenant date of rank be changed from 1 September 1990 to 1 February 1998, and you impliedly requested removing your failures of selection by the Fiscal Year 01 and 02 Naval Reserve Line Lieutenant Commander Selection Boards.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 August 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 opinion furnished by the Navy Personnel Command dated 19 March 2001, a copy of which is attached. The Board also considered your letter dated 11 June 2001 with enclosures.

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. They did note that the section of law cited in this opinion also provides for date of rank adjustment of officers who are transferred from an inactive status to an active status and placed on the reserve active-status list. However, officers in the Individual Ready Reserve (IRR) are not in an "inactive status" for purposes of the law. Finally, the Board was unable to find you could not compete fairly for promotion because of your time in the IRR. 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

Enclosure

451-01



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], US [REDACTED]

Encl: (1) BCNR File 000451-01 w/Service Record

1. We are returning enclosure (1) with the following observations and the recommendation that Lieutenant [REDACTED]'s request for an adjustment of date of rank to 01 February 1998 be denied.

2. Date of rank adjustment to enhance an officer's competitiveness is permitted by 10 U.S.C. section 741(d)(3) only when an officer is transitioning from the Reserve Active Status List to the Active Status List. This provision allows a member the opportunity to earn competitive fitness reports in active duty assignments prior to being considered by an active duty promotion board. There is no similar provision for members returning to the Selected Reserve from the Individual Ready Reserve (IRR).

3. We recommend Lieutenant [REDACTED] detail his reasons for transferring to the IRR in a letter to the President of the FY-02 Naval Reserve Lieutenant Commander Line Board for consideration by the board's members.

[REDACTED]

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