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

MEH:ddj
Docket No: 1396-00
27 June 2000

[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 27 June 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 opinion furnished by CNO memorandum 5420 SER N130D/0U0329 of 14 June 2000, 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 N130D/0U0329
14 June 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

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

Subj: COMMENT AND RECOMMENDATION IN THE CASE OF [redacted]

Ref: (a) DODINST 1304.22

Encl: (1) BCNR File #01396-00 with microfiche service record

1. The following provides comment and recommendation on former Petty Officer [redacted] petition. Petty Officer [redacted] requests that the 24-month extension of enlistment signed to guarantee entry into the Advance Electronics Field (AEF) and early advancement to pay grade E-4 be removed from her record on the grounds the extension became superfluous when she later reenlisted.

2. N130 recommends deny MS. [redacted] request.

3. Petty Officer [redacted] initial enlistment into the Navy was on 1 June 1987. On that day she signed an agreement and statement of understanding that by electing training in the Advance Electronics Field (AEF)/Technical Field (ATF) program and accelerated advancement to pay grade E-4 she was obligating service for four years plus twenty four months (a six year obligation). Further, the 24-month extension became binding upon execution (signing of the agreement - 1 June 1987) and thereafter it could not be canceled. Her end of obligated service (EAOS) was 31 May 1993.

4. On 30 May 1991, Petty Officer [redacted] re-enlisted for six years with a Selective Reenlistment Bonus (SRB) of $14,007.60. This bonus was for four of her six-year re-enlistment. Petty Officer Francis received the bonus in a standard payment scheme of half on the re-enlistment date with five equal amount annual installments thereafter. Her SRB was not for the full six-year re-enlistment term because of the 24-months remaining to her initial enlistment. That 24-months is classified as 'existing contractual service agreement' and reference (a) prevents members from using the period of any existing contractual service

Subj: COMMENT AND RECOMMENDATION IN THE CASE OF FORMER ET3 [redacted] USN, [redacted]

agreement for SRB computation. Her new EAOS was then (on or about) 29 May 1997. MS. [redacted] petition correctly confirms this information.

5. On 18 October 1996, Petty Officer [redacted] was separated from the Navy based on weight control failure; member failed to meet the Navy's established weight (body fat) standards. Because SRB is paid to members for being available and working in a critical military skill, members who do not complete the term of service for which a bonus is paid are required to return the unearned portion of the bonus. When Petty Officer [redacted] separated from the Navy she was a little over seven months short of completing her obligated term of service. Petty Officer [redacted] earned 1,218 days of the expected 1,440 days service, and for which the bonus of $14,007.60 was paid. She earned $11,848.10 and owes ~$2,159.51, minus an adjustment for final pay earned at separation plus any charges for interest, penalty and administrative fees based on the Debt Collection Act of 1982 and the Deficit Reduction Acts of 1984.

6. Based on my review, the letter by Defense Finance and Accounting Service, Denver Center, of 6 October 1999 to MS. [redacted] is in all respects correct. Based on my reading of the petition, MS. [redacted] incorrectly assumed her SRB was based on a six-year term of service rather than the correct four years. Incorrectly assuming six-years and then subtracting the approximate seven months remaining to EAOS, one could estimate the debt to about $700.

7. BCNR case file with microfiche service record is returned herewith as enclosure (1).

[redacted]
Head, Enlisted Bonus
Programs Policy Section