



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

MEH:ddj  
Docket No: 6215-01  
16 October 2001



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 16 October 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 NPC memorandum 5730 Pers 913 of 13 September 2001, 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  
NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

5730  
PERS-913  
13 Sep 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

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

Subj: REQUEST FOR ADVISORY OPINION IN THE CASE OF  
[REDACTED]

Ref: (a) PERS 00ZCB Memo of 16 Aug 01  
(b) PHONCON bwtm YN1 [REDACTED] & HMI [REDACTED]/NRC Columbus GA and PNC [REDACTED]/CNPC Millington TN of 4 Sep 01  
(c) BUMED ltr 6110/2523 25/REN/A002043 of 27 Jan 00  
(d) Our ltr 6000 PERS-913 of 3 Feb 00  
(e) PEB ltr 1850 10R:111 PEB Index No. N20100537 of 31 May 01  
(f) Our ltr 6000 PERS-913 of 5 Jun 01  
(g) BUPERSINST 1001.39D  
(h) NRC Columbus GA ltr 7000 N00 of 28 Jun 01

Encl: (1) BCNR File 6215-01

1. Per reference (a), the following comments and recommendations are submitted concerning [REDACTED] requests for corrective actions regarding his Time in Rate (TIR), years of qualifying service, retroactive drill pay/drill credit and refund of retroactive Serviceman's Group Life Insurance (SGLI) premiums:

a. Per reference (b) our research indicates that YN2 [REDACTED] was injured while on Annual Training (AT) on 27 August 1998. Per reference (c), BUMED found [REDACTED] not physically qualified for retention due to a herniated disk on 27 Jan 00, with no waiver recommended. Our letter, reference (d), stated that [REDACTED] was not physically qualified and directed Naval Reserve Center (NRC), Columbus GA to transfer him to the Voluntary Training Unit (VTU) in a non-drill status. Reference (d) also directed NRC Columbus to "inform member in writing of the opportunity to participate via correspondence courses for retirement points to attain qualifying years".

Subj: REQUEST FOR ADVISORY OPINION IN THE CASE OF

b. In response to reference (d), ██████████ requested a review of his case by the Physical Evaluation Board (PEB). Per reference (e), the informal PEB found ██████████ not physically qualified. Subsequently, he elected a formal hearing with the PEB. Per references (e) and (f), the President, Physical Evaluation Board found YN2 ██████████ physically qualified for active reserve service and he was authorized to return to a drill pay status.

2. ██████████ specific concerns are addressed as follows:

a. ██████████ has requested a correction to his TIR because he apparently believes that he lost time during the period he was physically disqualified. Our research indicates ██████████ was advanced effective 95JUN16 with a TIR date of 95JAN01. TIR and effective date of advancement are not adjusted when personnel are placed in the VTU in an Authorized Absence "AA" category. Therefore, no correction to his TIR is required.

b. Because ██████████ remained on contract, his length (years) of service (LOS) continued to accrue. His LOS is calculated based on his Pay Entry Base Date of 25 May 88. As of September 01, 2001, ██████████ has completed 13 years, 3 months and 9 days total service of which 9 years, 2 months and 13 days are considered to be qualifying for purposes of retirement. YN2 ██████████ did not earn the required minimum 50 points per anniversary year from the period August 1998 through August 2000. These two years count towards longevity because he held military status, but do not count towards years of qualifying service. There is no record that ██████████ was counseled in writing, as directed by reference (d), regarding his opportunity to participate in correspondence courses to earn retirement points towards qualifying years for retirement. However, a second class petty officer with ██████████ level of experience should be expected to exercise reasonable initiative to ensure an understanding of the requirements to attain qualifying years of service. Therefore, we do not believe that this error justifies awarding him qualifying service for the period he was physically disqualified.

