



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

[Handwritten signature]

HD:hd
Docket No: 03638-02
22 November 2002

LT [REDACTED] USNR
[REDACTED]
[REDACTED]

Dear Lieuten[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 21 November 2002. 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 the Navy Personnel Command dated 24 June and 23 July 2002, copies of which are 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 dated 24 June 2002. 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

Enclosures



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS-911
24 Jun 02

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICD
L [REDACTED] NC, US [REDACTED]

Ref: (a) BCNR memo 5420 PERS-00ZCB of 5 Jun 02
(b) Title 10, U.S. Code, Section 12203
(c) Title 10, U.S. Code, Section 12683
(d) SECNAVINST 1000.7D

Encl: (1) BCNR Docket No: 03638-02

1. Per reference (a), enclosure (1) is returned with the following comments and recommendation concerning [REDACTED] request that her date of transfer to Standby Reserve-Inactive (USNR-S2) status be changed from 31 August 2000 to 12 August 1997 and all failures of selection for promotion occurring after that date be removed.

2. A review of [REDACTED] record reveals that she was commissioned as a Naval Reserve Nurse Corps officer on 31 July 1989 and served on active duty from August 1989 until July 1993. After her release from active duty, she entered the Individual Ready Reserve (IRR) but did not become an active participant in the Naval Reserve. Subsequently, she failed of selection for promotion to Lieutenant Commander on three occasions. On 31 August 2000, she was transferred to Standby Reserve-Inactive (USNR-S2) for not meeting minimum participation requirements. To date, she remains in USNR-S2 status. She has earned three years, 11 months and 18 days of qualifying service towards retirement.

3. Per reference (b), Naval Reserve officer appointments are for an indefinite term and are held at the pleasure of the President. They do not expire at the end of the military service obligation. Per reference (c), Naval Reserve officers may only be separated, without their consent, under certain

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS. [REDACTED]

limited circumstances. Separation of an officer is normally accomplished by recommendation of a board of officers convened by the Secretary of the Navy, except in cases of age, years of service and/or failures of selection, physical disqualification, or separation for cause. None of these exceptions applied to LT [REDACTED]

4. All members of the Ready Reserve (including the Individual Ready Reserve) are required by law to be considered by promotion boards, regardless of their active participation. The zones for promotion boards are published by ALNAV message, as are the results of the boards. Officers are not individually notified. It is ultimately an officer's personal responsibility to be aware of her status and to plan her career accordingly.

[REDACTED] is a member of the IRR from July 1993 until August 2000 and, as such, was eligible for consideration by promotion selection boards.

5. Because of the "grandfathering" provisions of the Reserve Officer Personnel Management Act (ROPMA), [REDACTED] is exempt from promotional attrition and remains eligible for continued Naval Reserve service. There is also sufficient latitude in ROPMA to allow other branches of the Armed Services to appoint her, if a conditional release is granted by Navy. Reference (d) does not allow us to grant conditional releases to reservists in a failed of select status. However, we believe this guidance is out of date (promulgated in 1985) and flawed. Therefore, we will seek a change to the instruction to remove the restriction. In the interim, we recommend that BCNR direct that we issue a conditional release, if [REDACTED] seeks appointment in another service branch.

6. We found no evidence of an error or injustice in [REDACTED] case and therefore, we recommend that her petition be disapproved.

7. Please contact [REDACTED] if you have any further questions concerning this matter.

[REDACTED]

Captain, U. S. Naval Reserve
Director, Naval Reserve
Personnel Administration Division

3638-02



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
Pers-80
23 JUL 02

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

Subj: BCNR REQUEST IC [REDACTED]

Ref: (a) Pers-911 letter of 24 June 02

Encl: (1) BCNR Package, [REDACTED] 02

1. Enclosure (1) is forwarded, with concurrence with the
recommendations from Pers-911 made in reference (a).

[REDACTED]

Commander, U.S. Naval Reserve
Director, Career Officer
Progression