



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

MEH
Docket No. 16-08
1 Dec 08

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) CNO memo 1160 Ser N130D1/08U0391 of 5 Jun 08
(3) NAVADMIN 070/07, 162/07 and related papers
(4) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to establish entitlement to Sea Duty Incentive Pay (SDIP).

2. The Board, consisting of Messrs. George, Pfeiffer, and Zsalman, reviewed Petitioner's allegations of error and injustice on 1 December 2008 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner was issued Permanent Change of Station (PCS) orders on 30 January 2007 with assignment to USS CARL VINSON (CVN-70). He reported onboard 26 October 2007.

c. The Sea Duty Incentive Pay (SDIP) Pilot Program was announced on 15 March 2007, by NAVADMIN 070/07. This program established a monthly incentive for service members in selected ratings, skills, and paygrades who voluntarily remained on sea duty past their prescribed sea tour or curtailed their current shore duty to return early to sea duty. Petitioner did not meet the stated requirements as his rating was not listed, and he was already in receipt of his PCS orders (the pilot program did not apply retroactively).

d. On 25 June 2007, NAVADMIN 162/07 revised and expanded the SDIP program. Of particular note was the addition of Petitioner's rating (EM) and a new provision that allowed sailors already in receipt of PCS orders to apply for SDIP (under the condition they had not already executed their orders). Because Petitioner had not yet executed his orders, and his rating was now listed, he could have applied for entitlement to SDIP.

e. Petitioner states he was miscounseled and told the appropriate paperwork to request SDIP should be done once he reported to his new command. Subsequently he waited until reporting aboard CVN-70, where he discovered that, because he had executed his orders, he was no longer entitled to request the change.

f. On 31 December 2008 Petitioner applied to the Board to correct his record to establish entitlement to SDIP based on the revised SDIP program guidelines.

g. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has recommended the request be denied, noting, essentially, that after the revised NAVADMIN was published Petitioner failed to apply prior to the execution of his PCS orders. In subsequent correspondence with CNO (N130) they also expressed concern over Petitioner's lack of supporting documentation. Specifically, he did not provide a command endorsement, or a letter from the Career Counselor, to corroborate his claim.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (2), the Board concludes that petitioner's request warrants favorable action. The SDIP program had been recently implemented, with revisions following shortly afterwards, and it was not inconceivable Petitioner was in fact miscounseled. Additionally, liaison with Navy Personnel Command (PERS 40DD, AIP/SDIP Program Manager) indicates that in an attempt to achieve the "intent and spirit" of the new program a member who otherwise met all requirements, even though he did not submit a request in a timely manner, should receive favorable consideration.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. He is entitled to SDIP, at the rate of \$500.00 a month, while attached to USS CARL VINSON (CVN 70) commencing on or about 1 November 2007.

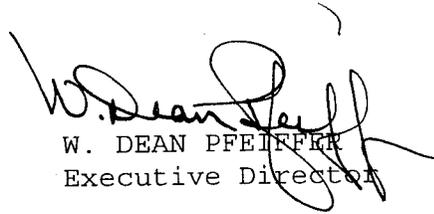
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



WILLIAM J. HESS, III
Acting Recorder

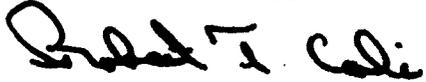
ROBERT D. ZSALMAN
Recorder

5. The foregoing action of the Board is submitted for your review and action.



W. DEAN PFEIFFER
Executive Director

Reviewed and Approved



12-12-08

Robert T. Cali
Assistant General Counsel
(Manpower and Reserve Affairs)