



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

MEH
Docket No. 4723-08
14 Jul 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) CNRC memo 1133 Ser 32/ of 5 Mar 08
(3) CNRC memo 1133 Ser 32/
(4) Excerpts from 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 show that he enlisted in pay grade E-3, vice E-1, based on college credits.

2. The Board, consisting of Messrs. Exnicios, George, and Zsalman, reviewed Petitioner's allegations of error and injustice on 14 July 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. Petitioner's request for a personal appearance before the Board was also considered.

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. The issues in the case are adequately documented and a personal appearance would not materially add to the Board's understanding of the issues involved. Thus, Petitioner's request for a personal appearance is denied.

c. Petitioner is a native of Nigeria and had been in the United States approximately 6 months when he enlisted in the Navy. His enlistment contract shows that he voluntarily enlisted in pay grade E-1 on 26 March 2007.

d. Petitioner alleges he should have been enlisted in pay grade E-3 based on qualifying college credits earned prior to his enlistment.

e. COMNAVCRUITCOMINST 1130.8G establishes criteria for enlistment in an advanced pay grade. Personnel with the requisite number of qualifying college credits to meet the advanced pay grade criteria are required to present official transcripts prior to the date they are to ship to recruit training. Foreign education must be evaluated by an education specialist to determine if it meets the appropriate accreditation criteria. If transcripts cannot be obtained, through no fault of the member, a statement must be entered on the DD Form 1966. Applicants must sign this statement acknowledging it is their responsibility to produce the required transcripts prior to graduation from recruit training. Authorization for advanced pay grade is cancelled upon graduation from recruit training if the transcripts have not been provided.

f. Prior to being accepted for enlistment, a prospective recruit must complete and certify a DD Form 1966 ((Record of Military Processing). A notation on Petitioner's DD Form 1966 shows that only high school transcripts had been provided to the recruiting officials. No entry was made reflecting review of any of college transcripts. The 1966/2 lists National Grammar school (Nigerian equivalent to U.S. high school). No college is listed; and the NAVCRUIT 1133/51, Request for Evaluation of Non-Traditional Education Credentials and Foreign Education, notes Petitioner's education code as "12L" High School Diploma Graduate, and further notes "None" for Advanced Pay Grade Eligibility based on foreign education.

g. Petitioner signed a NAVPERS 1070/613, Advanced Pay Grade Eligibility record entry dated 26 March 2007. On the NAVPERS 1070/613 Petitioner acknowledged that he had read the advanced pay grade program eligibility requirements and understood that, in order to qualify for advanced pay grade to E-3 he must have completed 48 semester hours of college credits at an accredited educational institution. After acknowledging the above, Petitioner initialed the form stating "I am NOT eligible for Advanced Pay Grade."

h. On 17 March 2008 Petitioner's case was presented to the Board and, based on the above and the advisory opinion from Commander, Navy Recruiting Command (CNRC) of 5 March 2008 found in enclosure (2), Petitioner's application was denied.

i. On 7 May 2008 Petitioner requested a reconsideration of his case based on the submission of supplemental information explaining that he had not provided college transcripts earlier due to civil unrest in Nigeria.

j. The case was reopened and returned to CNRC for a supplemental advisory opinion in light of the "new" material. By enclosure (3), CNRC once again recommends that no relief be granted. CNRC notes that the DD Form 1966 shows no entry reflecting college education. No college transcripts were provided prior to shipping for recruit training. Also, the NAVCRUIT 1133/51, Request for Evaluation of Non-Traditional Education Credentials and Foreign Education indicated "None" for advanced pay grade.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosures (2) and (3), the Board concludes that Petitioner's request warrants favorable action. In the Board's view, a prospective recruit, with qualifying college credit, would not knowingly enlist in pay grade E-1 if in fact he fully understood that he was eligible for enlistment in an advanced pay grade based on that college credit. The Board was of the opinion that because Petitioner had actually earned college credit before enlisting, he should receive an advanced pay grade at enlistment for that college credit notwithstanding the evidence that information and evidence of such college credit was omitted from his enlistment application and his enlistment contract. The Board finds that the difficulties Petitioner described in obtaining official transcripts from Nigeria, a country experiencing political unrest and associated violence, militated in favor of excusing the omissions from the enlistment documents. The Board also notes that the education, while received at a foreign institution, nevertheless met criteria established for advanced pay grade.

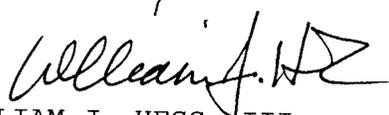
RECOMMENDATION:

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

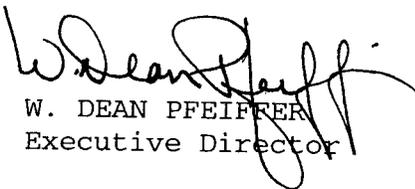
a. He enlisted in pay grade E-3, vice E-1, effective 26 March 2007 (Active Duty Service Date). Petitioner met the criteria for advanced pay grade based on college credits. NOTE: The change in the effective date of advancement to E-3 may also impact on Petitioner's E-4 advancement opportunity. If Petitioner was eligible for, but did not take and E-4 examination because the above change had not yet been made, the following procedures will apply to remediate that missed opportunity. Petitioner should take the next available E-4 examination. Then compare the Final Multiple Score (FMS) received on that examination with the FMS that was required for the "missed" examination. If the score received meets or exceeds the score that was previously required for advancement Petitioner may reapply to this Board for consideration of advancement to E-4 retroactive to the date he would have been advanced on the "missed" examination cycle. A command endorsement/recommendation and a copy of this letter must be included. The Board will determine whether the request warrants favorable action.

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.

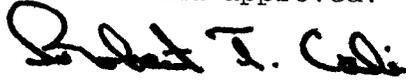
ROBERT D. ZSALMAN
Recorder


WILLIAM J. HESS, III
Acting Recorder

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


W. DEAN PFEIFFER
Executive Director

Reviewed and approved:


7-29-08

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