



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

MEH
Doc. No. 5373-08
19 August 2008

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 18 Jul 08
(3) Subject's naval record (CD and printed excerpts)

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 she enlisted in paygrade E-3, vice E-1, based on college credits earned in foreign institutions prior to her enlistment.

2. The Board, consisting of Messrs. George, Pfeiffer, and Zsalman, reviewed Petitioner's allegations of error and injustice on 28 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.

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 entered the Delayed Entry Program (DEP) on 30 July 2007 and shipped to active duty on 10 September 2007 (42 days).

c. Petitioner signed and executed an enlistment contract enlisting her in pay grade E-1 but alleges she should have been enlisted in paygrade E-3 based on college credits earned in the Republic of Columbia prior to signing her contract.

d. COMNAVCRUITCOMINST 1130.8G establishes criteria for enlistment in an advanced paygrade. Personnel with the requisite number of college credits to meet the advanced paygrade criteria must present official transcripts *prior* to ship date. Foreign education must be translated and evaluated by an education specialist to determine if it meets the appropriate accreditation.

e. Petitioner's DD Form 1966/1 (Record of Military Processing) indicates a corrected education code of "16K" Baccalaureate Degree; she was originally classified as "11L" High School (foreign country). Block 22a (Education) of the DD Form 1966/2 lists Jorge Tadeo Lozana (university attended in Bogata, Columbia), with the "Graduate" column marked "Yes." There are no entries on Petitioner's DD Form 1966/4 regarding her high school or college transcripts.

f. Petitioner signed an Advanced Paygrade Enlistment Statement of Understanding on 9 August 2007 indicating she had read and fully understood the requirements for advanced paygrade, and that she was "NOT eligible for Advanced Paygrade."

g. In June 2008, Petitioner filed the instant application seeking a change to her enlistment contract to show that she enlisted in pay grade E-3 vice E-1. To support her application, she submitted a translation of a diploma which states that she received a university degree from the Fundacion Universidad De Bogata in September 2000 and a diploma showing completion of a course of secondary education at La Fundacion Gimnasio Vermont, Republic of Columbia in 1994. There is no evidence that the transcripts or translations were proffered prior to her entry on to active duty on 10 September 2007.

h. 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 that the transcripts and translations were not provided prior to ship date as required by the existing policy and governing instructions. Additionally, Petitioner signed the Advanced Paygrade Enlistment Statement of Understanding indicating she was "NOT eligible for Advanced Paygrade."

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (2), the majority concludes by 2 to 1 vote that Petitioner's request warrants favorable action. In the majority's view, a prospective recruit, with qualifying college credit, would not knowingly enlist in pay grade E-1 if in fact she fully understood that she was eligible for enlistment in an advanced pay grade based on that college credit. The majority is of the opinion that because Petitioner had actually earned college credit before enlisting, she should receive an advanced pay grade at enlistment for that college credit notwithstanding the evidence that transcripts/translations were not provided before shipping to recruit training.

MAJORITY RECOMMENDATION:

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

a. She enlisted in paygrade E-3, vice E-1, effective 10 September 2007 (Active Duty Service Date). She met the advanced paygrade criteria 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 an E-4 examination because the above change had not been made, the following procedures will apply to remediate that missed opportunity. Petitioner should take the next available E-4 advancement examination. Then compare the Final Multiple Score (FMS) received on that examination with the FMS that was required for the "missed" examination cycle. A command endorsement/recommendation and a copy of this letter must be included, the Board will determine whether the request will be approved).

MINORITY CONCLUSION:

A minority of the Board (Mr. Pfeiffer) concludes that no relief is warranted. The minority finds that it was incumbent on Petitioner to submit college transcripts and translations in accordance with the established policy. This is especially true in this case because Petitioner had completed all of her education well before she entered the DEP and thereafter spent another 42 days in the DEP. This provided her with adequate

opportunity to obtain and submit transcripts and translations. Moreover, Petitioner had signed the Advanced Paygrade Enlistment Statement of Understanding indicating she was "NOT eligible for Advanced Paygrade." In the minority's view, Petitioner knowingly executed a contract enlisting in pay grade E-1 and such contract should be binding upon her.

MINORITY RECOMMENDATION:

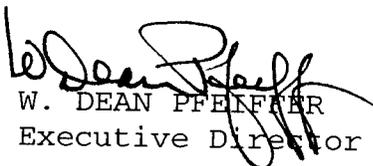
That Petitioner's request be denied.

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.

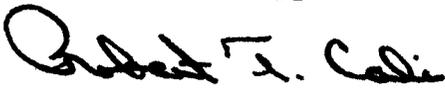
ROBERT D. ZSALMAN
Recorder


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


8-26-08

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