



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

BAN
Docket No. 06981-08
8 September 2008

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 September 2008. Your allegations of error and injustice re 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. The Board considered the advisory opinion furnished by NPC memo 1430 PERS 812 of 22 Aug 08, 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 also 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

1430
PERS-812
AUG 22 2008

MEMORANDUM FOR CHAIRMAN, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-31C)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF [REDACTED]

Ref: (a) BCNR File 06981-08
(b) BUPERSINST 1430.16E
(c) COMNAVPERSCOM ltr 1430 PERS-812A of 27 Sep 07

1. Per reference (a), the following recommendation and comments are forwarded concerning [REDACTED] petition for his advancement to E5/MC2 be made effective 16 March 2007 or 11 January 2007.
2. A review of [REDACTED] record indicates that he participated in the August 2006 (Cycle 079) Navy-wide Reserve Inactive advancement examination and selected for advancement to MC2 to be effected on 16 March 2007. [REDACTED] was discharged from the Navy Reserve on 29 October 2006, which was prior to his prospective advancement date.
3. Due to [REDACTED] discharge from the Navy Reserve, he did not maintain eligibility for advancement. Reference (b) does establish a means of retaining advancement authority after separation from a Navy Reserve status with the specifications that the member must be changing competitive category (i.e. USNR to USN, USN to USNR) for advancement determination consideration. Our office did receive an advancement determination for [REDACTED] and our records indicate the request was disapproved in reference (c) since an advancement determination does not include discharge and subsequent return to same status.
3. In view of the above information, it is our recommendation that [REDACTED] petition be denied and no further action be taken on this case. Member's examination should have been invalidated due to his voluntary discharge on 29 October 2006. [REDACTED] did retain his time in rate as established in policy upon his enlistment on 11 January 2007 and has subsequently been advanced to E5/MC2 effective 16 July 2008 as a result of participation in the February 2008 (Cycle 082) Navy-wide Reserve Inactive advancement cycle.
4. This is an advisory memorandum for use by the Board for Correction of Naval Records (BCNR) only. Point of Contact is PS1(SW) Jacobs at Commercial 901-874-4500 or DSN 882-4500.


J. D. VANCE
By direction