



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

HD:hd
Docket No. 12183-08
5 June 2009

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

Subj: ~~REDACTED~~
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 7 Nov 08 w/attachments
(2) OPNAV N135 memo dtd 2 Feb 09 w/enclosure
(3) Subject's ltr dtd 13 May 09 w/attachments
(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 by modifying the Physical Readiness Information Management System (PRIMS) data for the Spring 2006 (8 August 2006) Physical Readiness Test (PRT) to show he was medically waived, rather than failed (cardio portion).

2. The Board, consisting of Ms. Willis and Messrs. Bowen and Ivins, reviewed Petitioner's allegations of error and injustice on 29 May 2009, 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. Enclosure (1) was filed in a timely manner.

c. Petitioner experienced pain during the Spring 2006 PRT. It was not until 20 December 2006 that he was able to get X-rays that revealed he had broken his foot.

d. In enclosure (2), N135, the Office of the Chief of Naval Operations office with cognizance over the subject matter of Petitioner's case, commented to the effect that he had established he warranted a medical waiver from the PRT, but he did not receive a waiver until four months after the PRT in question.

e. In enclosure (3), Petitioner provided a physician's report dated 26 January 2007, stating he had broken his foot during the PRT of August 2006.

f. Petitioner's record includes a performance evaluation report for 16 November 2005 to 15 November 2006 (copy at Tab A), during which the PRT in question was conducted. Block 20 ("Physical Readiness") shows a PRT code of "F [failed]." Block 43 ("Comments on Performance") includes the statement "Failed 4th PFA [Physical Fitness Assessment] within most recent 4-year period."

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding the contents of enclosure (2), the Board finds the existence of an injustice warranting the requested relief. The Board finds Petitioner broke his foot during the PRT in question, and that it was through no fault of his own he could not obtain a medical waiver until well after the fact. Accordingly, the Board recommends the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying the PRIMS data for the Spring 2006 PRT to show he was medically waived, rather than failed (cardio portion).

b. That his record be corrected further by amending as follows the performance evaluation report for 16 November 2005 to 15 November 2006, signed by Commander T. S. Sanford, USN and dated 15 November 2006:

(1) Block 20: Change PRT code from "F" to "M [medically waived]."

(2) Block 43: In third line from bottom, change "4th" to "3d."

c. That his record be corrected further by removing any service record page 13 ("Administrative Remarks") or other entry reflecting he failed the Spring 2006 PRT.

d. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

e. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a 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.

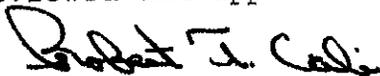
ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

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


W. DEAN PFEIFFER

Reviewed and approved:



6-15-09