



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

HD:hd

Docket No. 03150-09

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 15 Jul 08 w/attachments
(2) OPNAV N135 memo dtd 29 Aug 08 w/enclosures
(3) Subject's memo dtd 24 Oct 08 w/attachments
(4) OPNAV N135 memo dtd 24 Nov 08 w/enclosure
(5) BCNR ltr HD:hd Docket No. 07601-08 dtd 17 Mar 09
(6) OPNAV N135 memo dtd 24 Mar 09 w/enclosure
(7) Subject's memo dtd 12 May 09 w/enclosures

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 Fall 2007 (1 November 2007) Body Composition Assessment (BCA) to show she was medically waived, rather than failed (her performance evaluation report for the pertinent period, 11 April 2007 to 15 March 2008, has been corrected).

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, and applicable statutes, regulations and policies.

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 was pregnant in July 2007 and suffered a miscarriage. In a letter of 1 July 2008, in enclosure (1) at Tab A, a Navy flight surgeon stated she should have been waived from the Fall 2007 BCA.

d. In enclosure (2), N135, the Office of the Chief of Naval Operations office with cognizance over the subject matter of this case, commented to the effect Petitioner's request should be denied, as a medical waiver must be in writing from a board eligible or certified specialist and reviewed by the specialist's department head. N135 concluded that the waiver of 1 July 2008 is invalid.

e. Enclosure (3) is Petitioner's request that another opinion be requested from N135.

f. In enclosure (4), N135 stated that the waiver was valid and attached documentation showing the PRIMS data had been corrected as Petitioner had requested.

g. Enclosure (5) is this Board's letter advising Petitioner that her case had been administratively closed in view of the N135 action.

h. In enclosure (6), N135 stated that they had made an error in reviewing the timeline for Petitioner's waiver, so their original advisory opinion (enclosure (2)) was correct; and that the PRIMS data had been amended accordingly to show Petitioner had failed the Fall 2007 BCA. In light of this, Petitioner's case was reopened.

i. Enclosure (7) is Petitioner's reply to enclosure (6), essentially summarizing what has transpired in her case and reiterating her request for waiver.

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding the contents of enclosures (2) and (6), the Board finds the existence of an injustice warranting the requested relief. While the waiver document Petitioner offers

is not from a specialist, and it was not submitted until after the BCA in question, the Board is satisfied Petitioner warrants a medical waiver from the Fall 2007 BCA. Accordingly, the Board recommends the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying the PRIMS data for the Fall 2007 BCA to show she was medically waived, rather than failed.

b. That Petitioner's record be corrected further by removing any service record page 13 ("Administrative Remarks") or other entry reflecting she failed the Fall 2007 BCA.

c. 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.

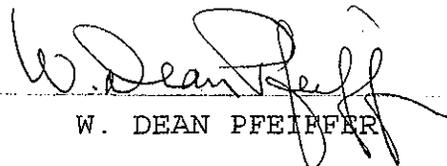
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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.

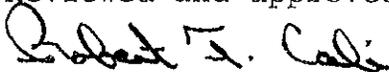
ROBERT D. ZSALMAN
Recorder


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:



6-16-09