



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

WJH:DJC
Docket No. 7426-09
23 Feb 2010

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) NAVADMIN 075/09 of 12 March 2009
(3) Reenlistment Request form
(4) PERSCOM msg 100029Z Jun 09
(5) NAVADMIN 176/09 of 10 June 2009,
(6) NPC Memo 1160 Ser 811/536 dtd 28 Jul 09
(7) E-mails and papers relating to Petitioner's application

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 establish entitlement to a zone "A" Selective Reenlistment Bonus (SRB).

2. The Board, consisting of Mr. Pfeiffer, Mr. Zsalman, and Mr. George, reviewed Petitioner's allegations of error and injustice on 11 January 2010 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. In early 2009, applicant was an Explosive Ordnance Disposal Technician Petty Officer Second Class (EOD2) on active

duty with an End of Obligated Service (EAOS) date of 4 July 2009. He also had signed a 12 month extension which would become operative on 5 July 2009 and extend his term of service until 4 July 2010.

c. On 12 March 2009, NAVADMIN 075/09 was released announcing Selective Reenlistment Bonus (SRB) award levels for Active component personnel. The NAVADMIN listed an award level of 7.0 for members with an EOD/5333 rate/NEC who reenlist in zone A effective on 1 May 2009. Under the guidance contained in the NAVADMIN, "Commands must submit SRB requests via OPINS (Officer Personnel Information System) 35-120 days in advance of the sailor's EAOS or reenlistment date to ensure the approval or disapproval message will reach the sailor's command and the Defense Finance and Accounting Service before the reenlistment date. . . Requests submitted less than 35 days prior to the reenlistment date without substantial justification will be rejected." See enclosure (2).

d. From 5 April 2009 to 27 June 2009, Petitioner was on Temporary Additional Duty (TAD) away from his "parent" command for EOD training in southern California. While TAD, he had only "limited" access to communication systems.

e. On 18 May 2009, Petitioner submitted a reenlistment request form for routing through the chain of command. Petitioner requested authorization to reenlist on 2 July 2009 for a term of 4 years. See enclosure (3)

f. On 19 May 2009, Petitioner's Commanding Officer approved the reenlistment request.

g. On 8 June 2009, Petitioner's Command submitted a reenlistment bonus request through the Officer Personnel Information System (OPINS). Note: the OPINS request was not submitted until 20 days after the Commanding Officer approved the reenlistment request. The command has stated that they were conducting field exercises during that timeframe which interfered with their ability to process OPINS requests in a more timely manner.

h. On 10 June 2009, the Commander, Navy Personnel Command (COMNAVPERSCOM) disapproved the OPINS request because it was received fewer than 35 days prior to the requested reenlistment date. See enclosure (4).

i. On 10 June 2009, NAVADMIN 176/09 was published. This NAVADMIN announced the immediate suspension of any new SRB requests for the remainder of Fiscal Year 2009. See enclosure (5).

j. On 24 June 2009, the Chief of Naval Operations (N130) reviewed enclosure 4 (the OPINS disapproval message issued by COMNAVPERSCOM). After reviewing the circumstances, N130 granted Petitioner a "waiver" to the limitation that "Commands must submit SRB requests via OPINS 35-120 days in advance of the sailor's EAOS or reenlistment date" provided Petitioner reenlist on 2 July 2009 as originally requested. This "waiver" effectively nullified enclosure 4 (the 10 June 2009 OPINS disapproval message). Regrettably, information about the "waiver" never reached Petitioner.

k. On 27 June 2009, Petitioner returned to his parent command from his TAD assignment.

l. On 5 July 2009, Petitioner's 12 month agreement to extend enlistment (NAVPERS 1070/621) became operative and his EAOS became 4 July 2010.

m. Thereafter, Petitioner submitted the instant application to this Board. The application (DD Form 149) is dated 24 June 2009 and was received on 14 July 2009. Petitioner claims, essentially, that the failure to submit his SRB request into OPINS 35 days in advance of his reenlistment date was through no fault of his own and should be attributed to a failure of his command. To bolster his application, he submitted a letter from his Commanding Officer stating that "Due to all the circumstances surrounding (Petitioner's) pre-deployment training, limited connectivity and adequate medical facilities, I honestly believe it was not EOD2 Strausbaugh's fault that his (SRB) request was denied. The EOD community is severely undermanned and over-tasked with global commitments."

n. On 28 July 2009, the OPINS request, as waived by N130, was cancelled by the COMNAVPERSCOM because Petitioner did not reenlist on 2 July 2009.

o. Petitioner subsequently reenlisted on 1 December 2009 for a term of 4 years. For that reenlistment, he received an SRB with an award level of 5.5. The term of service until 4 July 2010 that Petitioner is obligated to fulfill because the 12 month extension became operative was deducted from his award.

p. Petitioner is requesting that his naval record be corrected to show that he reenlisted on 2 July 2009 with an award level of 7.0 for the EOD/5333 rate/NEC vice reenlisting on 1 December 2009 with an award level of 5.5. Such a change would essentially entitle the member to a higher bonus award level.

q. By enclosure (6), the Navy Personnel Command (NPC) has provided a recommendation that no relief be granted that would provide the member a higher reenlistment bonus. NPC reasons that the SRB request was not entered into OPINS at least 35 days in advance of the requested reenlistment date as required by the governing NAVADMINS. Additionally, once the "waiver" was granted, Petitioner did not reenlist on 2 July 2009.

CONCLUSION

Upon review and consideration of all the evidence of record, and notwithstanding the opinion expressed in enclosure (6), the Board finds the existence of an injustice warranting corrective action. The Board relied heavily on the following factors: Petitioner submitted his reenlistment request to his command on 18 May 2009, reasonably well ahead of his EAOS (4 July 2009) and his requested reenlistment date (2 July 2009). His command was unable to submit his reenlistment request into OPINS until 8 June 2009 (20 days after it was approved by the commanding officer) because of field exercises and deployment preparation. If the SRB request had been entered in OPINS in a more timely manner, Petitioner would have most likely been authorized to reenlist for a bonus on 2 July 2009 with an award level of 7.0. The delay in submitting the SRB request into OPINS was not attributable to the Petitioner. Additionally, Petitioner was never advised that a "waiver" had been granted by N130. Under these circumstances, the Board was of the opinion that the member should not be penalized for the inability of his command to submit the request into OPINS in a more timely manner and that relief should be granted to authorize the payment of an SRB with an award level of 7.0.

RECOMMENDATION:

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

a. Petitioner was discharged and reenlisted on 1/2 July 2009, vice on or about 30 November/1 December 2009. The term is 4 years.

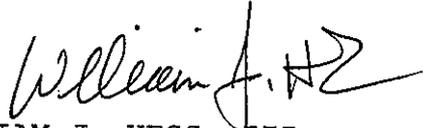
b. This change will entitle the member to a zone "A" SRB with an award level of 7.0 for the EOD/5333 rate/NEC. Remaining obligated service to 4 July 2009 will be deducted from SRB computation.

c. The Petitioner's previous zone "A" SRB payment should be adjusted to reflect recent zone "A" entitlement.

d. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

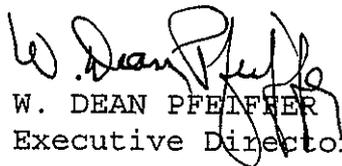
4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


WILLIAM J. HESS, III
Acting Recorder

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

23 Feb 2010


W. DEAN PFEIFFER
Executive Director

Reviewed and approved.



3/10/10

Assistant General Counsel
(Manpower and Reserve Affairs)