



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

WJH
Docket: 7609-09
23 Apr 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 006/09 of 9 January 2009
(Selective Reenlistment Bonus Policy Change)
(3) NAVADMIN 050/09 of 10 February 2009
(Selective Reenlistment Bonus) Message
(4) PERSCOM msg 070120Z Mar 09
(5) CO FRC MIDLANT ltr 1440 Ser 00/298 of 15 Mar 10
(6) NPC Memo 1160 Ser 811/565 of 17 Aug 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 19 April 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 late 2008, applicant was an Aviation Electronics Technician Third Class (AT3) on active duty with an End of Obligated Service (EAOS) date of 29 August 2009. He was deployed with the USS Roosevelt battle group from September 2008 through April 2009.

c. On 9 January 2009, NAVADMIN 006/09 (Selective Reenlistment Bonus Policy Change) was published. This NAVADMIN announced a more restrictive policy governing eligibility for SRB's. The new policy restricts SRB's to reenlistments occurring within 90 days of a sailor's EAOS. However, sailors serving in a Combat Zone Tax exclusion (CZTE)/Hazardous duty area were excepted from the new more restrictive policy. See enclosure (2).

d. NAVADMIN 006/09 also states that in order for a sailor to be eligible for an SRB, the sailor's command is required to submit the SRB requests "via OPINS (Officer Personnel Information System) 35-120 days prior to the requested reenlistment date. Requests submitted less than 35 days prior to the reenlistment date may be rejected."

e. On 4 February 2009, applicant submitted a reenlistment request through his Command Career Counselor seeking to reenlist on 15 March 2009 for a term of 3 years. He also requested a tax free SRB for the reenlistment. The SRB award level available at the time for members with an AT rate who reenlist in zone A was 0.5. See enclosure (1).

f. On or about 4 February 2009, the applicant's Division Officer approved the reenlistment request.

g. On 10 February 2009, NAVADMIN 050/09 (Selective Reenlistment Bonus) was published. This NAVADMIN announced revised SRB award levels. Decreased award levels became effective on 11 March 2009. Under this new message the SRB award level for the AT rating (applicant's rating) was scheduled to decrease from 0.5 to 0.0 effective 11 March 2009. The message also included the following transition provision: "A sailor in a skill listed for reduction or

termination of award level who has...a pending precertification for a reenlistment date of 10 March 2009 or later must submit the request for a new reenlistment date of 10 March 2009 or earlier to be eligible for the higher award level."¹

h. On 4 March 2009, applicant's command submitted the SRB request into OPINS. Note: The OPINS request was not submitted by the command until approximately 28 days after the applicant's Division Officer approved the reenlistment request and only six days prior to applicant's requested reenlistment date. The command was deployed at the time.

i. On 7 March 2009, the OPINS SRB request was disapproved by the Navy Personnel Command (NPC) because the OPIS request was not submitted at least 35 days prior to the requested reenlistment date. See enclosure (4).

j. On 9 March 2009, the member reenlisted for 3 years. He did not receive a Reenlistment Bonus.

k. Thereafter, the applicant submitted the instant application to this Board. He 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 "AT3 Saavedra did everything correctly with his paperwork but inefficient contact between the USS Roosevelt counselor and FRC Mid-Atlantic counselor delay(ed) his request." See enclosure (5). The applicant requests that that his naval record be corrected to show that he was authorized a bonus with an award level of 0.5 (for the AT rating) for the reenlistment 9 March 2009.

l. By enclosure (6), the Navy Personnel Command has provided a recommendation that no relief be granted that would provide the member a 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.

¹ This transition provision applied to sailors with an EAOS prior to 9 May 2009 (which Applicant did not have) or to sailors who were in a CZTE/Hazardous duty area. Applicant was in a CZTE/Hazardous duty area at the time.

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 4 February 2009, well ahead of his EAOS (29 August 2009) and his requested reenlistment date (15 March 2009). His command was unable to submit his reenlistment request into OPINS until 4 March 2009 due to deployment and inefficient communications with shore support. 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 9 March 2009 with an award level of 0.5. The delay in submitting the SRB request into OPINS was not attributable to the Petitioner. 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 0.5.

RECOMMENDATION:

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

a. The Petitioner was discharged on 8 March 2009 and reenlisted on 9 March 2009. The term is 3 years.

b. Petitioner was authorized a zone "A" SRB with an award level of 0.5 for the AT rate for the reenlistment of 9 March 2009. Remaining obligated service to 29 August 2009 will be deducted from SRB computation.

c. Petitioner's command must submit the tax free data code to DFAS for determination of tax free eligibility.

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

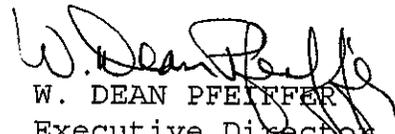
4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder

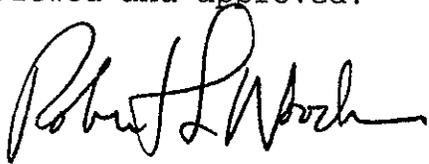

WILLIAM J. HESS III
Acting Recorder

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

23 April 2010


W. DEAN PFEIFFER
Executive Director

Reviewed and approved.

 5/5/10
Assistant General Counsel
(Manpower and Reserve Affairs)