



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

BAN
Docket No. 02859-10
4 August 2010

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) Naval Personnel Command (NPC) memo of 1430 Ser 811/300 of 24 May 10
(3) DD Form 214
(4) COMNAVCRUITCOMINST 1130.8H, Section 4
(5) Page 13 dtd 30 Aug 07
(6) Individual Profile sheet from the February 2008 Navy-wide Reserve advancement exam, Cycle 082
(7) Email between [REDACTED] (BUPERS-329C) Enlisted Community Manager and [REDACTED] (NOSC Houston) of 18 Mar 09
(8) Individual Profile sheet from the February 2009 Navy-wide Reserve advancement exam, Cycle 084

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 show that he was advanced to E-5/MA2 from the February 2008, Navy-wide Reserve advancement exam.

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and George, reviewed Petitioner's allegations of error and injustice on 12 July 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. Petitioner enlisted on active duty in the Navy on 22 August 2003, and was honorably discharged on 21 August 2007, as an E-4/Cryptologic Technician - Technical Third Class (CTT3), enclosure (3). In August 2007, Petitioner joined the Naval Reserves under the Recruiting Selective Conversion for Reenlistment Reserve (RESCORE-R) program with the rating of Master-at-Arms (MA) Third Class. Under the RESCORE-R program, Petitioner was required to sign a page 13 entry acknowledging that he had to complete MA "A" school within 12 months upon entry, or the command's career counselor had to request an "A" school waiver, enclosures (4) and (5). Petitioner was attached to the Navy Operational Support Center (NOSC) Houston and claims that he immediately initiated the process to request an "A" school waiver through his career counselor [REDACTED], who has since retired). Furthermore, he states that in October 2007, his career counselor stated she would inquire on the status of his waiver package.¹ Petitioner believed in good faith that the career counselor was acting in his best behalf and submitted the waiver in a timely manner. Therefore, in February 2008, Petitioner was allowed by his parent command (NOSC Houston) to participate in the E-5/MA2 advancement exam even although the waiver had not yet been approved.²

c. In April 2008, Petitioner was informed the he passed and was to be advanced to E-5/MA2 from the February 2008, advancement cycle with an effective date of 16 August 2008, and a Time In Rate (TIR) date of 1 July 2008, enclosure (6). In July 2008, Petitioner had a new career counselor, [REDACTED], who followed up on the "A" school waiver and discovered that no waiver had been submitted by the command. Therefore, in December 2008, the Naval Education and Training Center (NETPDC) invalidated Petitioner's February 2008, exam because Petitioner had not received an "A" school waiver before the end of the limiting date for advancement. This also prevented Petitioner from participating in the August 2008, advancement exam since he believed he was already advanced.

d. A new waiver request was submitted. While waiting for the new package to be approved or disapproved, Petitioner's parent command again allowed Petitioner to participate in the February 2009, E-5/MA2 advancement exam, even though the "A" school waiver was still not approved.

e. Finally, in March 2009, the "A" school waiver was approved by BUPERS-329C, enclosure (7). In May 2009, Petitioner was notified that he passed and was advanced to E-5/MA2 from the February 2009,

¹ Pursuant to BUPERSINST 1430.16F, MA "A" school is a requirement for advancement to the next higher pay-grade, unless a waiver is granted by PERS-329C).

² Per a phone conversation in July 2010 with the Enlisted Community Manager [REDACTED], the MA community who approves/disapproves waiver requests, stated that a waiver package, once submitted with all the appropriate documents only takes a few days to receive a final determination.

advancement cycle with an effective date of 16 November 2009, and a TIR date of 1 July 2009, enclosure (8).

f. In February 2010, Petitioner submitted this request to the Board for Corrections of Naval Records (BCNR) requesting to validate his February 2008 Navy-wide Reserve advancement exam and advancement to E-5/MA2, enclosure (1).

g. By enclosure (2), Naval Personnel Command (NPC), recommended that no relief be granted, stating Petitioner was ineligible to participate in the E-5/MA2 rating exam due to not meeting the basic requirements to participate in the advancement exam.³ NPC stated that advancement in the MA rating required completion of MA "A" school and that Petitioner did not receive the "A" school waiver until 18 March 2009, after the February 2008 and February 2009 advancement examination cycles.

CONCLUSION:

Upon review and consideration of all the evidence in the record, the Board concludes that Petitioner's request warrants favorable action. The Board determined that Petitioner made a reasonable effort to request a waiver of MA "A" school based on his civilian and active duty qualifications and certifications. The Board noted that through no fault of his own, Petitioner's career counselor and his parent command erroneously allowed him to participate in the February 2008, E-5/MA2 advancement exam without an approved waiver for "A" school. However, the Board noted that Petitioner ultimately received the waiver for "A" school, even though it was after the fact. The Board felt that had the command submitted the waiver request in a timely manner, Petitioner would not have had his February 2008 advancement exam invalidated and therefore, would have advanced based on the February 2008 cycle. Finally, the Board noted Petitioner had his command's strong endorsement for a backdated advancement. Accordingly, the Board concludes that the record should be corrected to show that Petitioner advanced to E-5/MA2 from the February 2008 Navy-wide Reserve advancement exam.

RECOMMENDATION:

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

³ The requirements to participate in the E-5/MA2 advancement exam are 1) Be recommended by your commanding officer, 2) Have TIR eligibility, and 3) Have completed MA "A" school, or [received a waiver for "A" school].

a. Petitioner was advanced to E-5/MA2 from the February 2008 Navy-wide Reserve advancement exam with an effective date of 16 August 2008, with a Time In Rate date of 1 July 2008.

b. That a copy of the Report of Proceedings, be filed in the Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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.

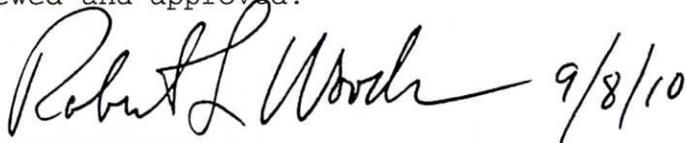
ROBERT D. ZSALMAN
Recorder


WILLIAM J. HESS, III
Acting Recorder

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


W. DEAN PFEIFFER
Executive Director

Reviewed and approved:

 9/8/10
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