



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

BAN  
Docket No. 06139-11  
11 October 2011

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

Subj: REVIEW OF NAVAL RECORD [REDACTED]

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

- Encl: (1) DD Form 149 w/attachments  
(2) Naval Personnel Command (NPC) memo 1430 Ser 811/336 of 5 Jul 11  
(3) Office of the Assistant Secretary, Manpower and Reserve Affairs, Limited Delegation of Authority memo 27 Sept 11  
(4) NETPDTC Form 1430/3 for advancement cycle 207

1. Pursuant to the provisions of reference (a) Petitioner filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to validate his E-6/A01 Navy-wide advancement examinations and show that he met the criteria to be advanced to E-6/A01 from the March 2011 cycle.

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and George reviewed Petitioner's allegations of error and injustice on 3 October 2011 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. The Board also considered enclosure (2) which is a recommendation from the Navy Personnel Command (NPC) Code 811 (Career Progression Department) that no relief be granted.

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. Under BUPERINST 1430.16F, (Advancement Manual for Enlisted Personnel of the U.S. Navy and U.S. Navy Reserve), all personnel designated in certain ratings, including Petitioner's rating, "must maintain, as a minimum, continuous security clearance eligibility." This provision has been interpreted by NPC to mean that, in order to be eligible to participate in an advancement cycle, take an advancement exam or advance to the next highest grade, a Sailor in one of the designated ratings must hold a final clearance which has been adjudicated and granted by the Department of the Navy Central Adjudication Facility (DONCAF).

c. Petitioner had prior honorable service with the Marine Corps from 1997 to 2001. He then entered the Navy in 2001 as an E3. Over the next nine years, he advanced from E3 to E5 and participated in multiple E6 advancement cycles. During this time, he did not have a DONCAF adjudicated security clearance. In 2010, upon realizing that he did not have the required clearance, NPC invalidated the results of his E6 advancement cycles entirely. Petitioner avers that he was unaware of any deficiency in his clearance status. He cites the Navy's actions between 2001 and 2010 as evidence that he reasonably believed he was qualified to compete for advancement. The issue in this case is whether, under the circumstances, his record should be changed to validate the results of the E6 exam cycles.

d. Examination of Petitioner's naval record reveals the following: Petitioner enlisted in the Navy in November 2001. He completed and submitted the standard security questionnaire documents required of all enlistees. He attended and graduated AO "A" in April 2002, then transferred to SFWPAC El Centro where he received an accelerated advancement to E4. Upon transferring from there, he attended and graduated from AO "C" school in May 2004, where he was given follow on orders to MCAS Miramar, California until May 2005. He then transferred to the USS BOXER, where he was advanced to E-5 in June 2006. While stationed aboard the USS BOXER, beginning in September 2008 he participated in the next three E-6/AO1 advancement examinations. He successfully passed those exams, but did not achieve the final multiple score needed to advance to E6. However, because of his passing exam scores, he was entitled to and received "Passed but not Advanced" (PNA) points. Those points may be used in subsequent exam cycles to raise a participant's final multiple score. There is no evidence that he was ever notified that he was ineligible to participate in advancement exams or to advance.

e. In March 2010, Petitioner was again authorized by the Educational Service Office to participate in the E-6/AO1 Navy-wide advancement examination. In May 2010, when the advancement results were released, he learned that the exam had been invalidated. Apparently, neither Petitioner, his command, nor NPC were aware that he was ineligible to participate in the exam cycle.

f. In addition, NPC invalidated the results of all of his E6 advancement exams. This had the effect of setting aside his scheduled advancement (from the March 2010 cycle) and depriving him of PNA points (earned on prior advancement cycles). NPC took this action because they learned that Petitioner had never had a DONCAF adjudicated security clearance.

g. Upon being notified of the deficiency in his clearance status, in late May 2010, Petitioner re-submitted the required security questionnaire documents to obtain the required security clearance. However, prior to the September 2010, Navy-wide advancement exam cycle, Petitioner had still not received his final clearance. He received his final adjudicated security clearance without undue difficulty or hindrance on 25 February 2011. NPC has not, however, revalidated his exams.

h. In March 2011, with his final adjudicated clearance, he participated in the E6/AO1 Navy-wide advancement examination; however, he PNA'd the exam with a final multiple score of 197.71, missing advancement by 1.5 points (minimum multiple required was 199.20).

i. Petitioner has applied to this Board seeking to have his E6 advancement exams validated retroactively for PNA points to apply toward his March 2011 advancement exam. He states that he was unaware that his clearance status was deficient. He had submitted the required security questionnaire documents long ago upon entering the Navy. He had graduated from AO "A" and "C" schools and been transferred several times. He had advanced from E-3 to E-5. He was serving in his rate, and he had been allowed to participate in several exam cycles. He had never been held back in any way from progressing through his Navy career due to security clearance issues and he was not aware that there was a deficiency.

j. Petitioner's commanding officer strongly endorses his request. He states that "after reviewing all the information provided, it is my opinion that the lack of a security clearance was through no fault of his own" and that "he was never advised

then, and has never been advised since...[that there was] a problem with his security clearance."

k. Review of the "Plan of the Week" (POW) from the USS CARL VINSON (CVN 70) in the weeks leading up to the March 2011 examination fails to disclose any evidence that the requirement to hold a security clearance was widely known or publicly announced.<sup>1</sup>

l. Review of Petitioner's last Worksheet, (enclosure 4) for the March 2010 exam also fails to disclose any evidence that Petitioner was notified or aware of the requirement to hold a security clearance in order to participate in the advancement cycle. Nor does it disclose any evidence that Petitioner was aware of any deficiency in his clearance status.

m. Petitioner had never "lost" or had his security clearance revoked at any time. During his service in the Navy, he has never been involved in misconduct to lose or forfeit his security clearance. For the entire time he has been in the Navy, after his initial training, he served in his rating.

n. By enclosure (2), NPC Code 811 (Career Progression Department) recommends that no relief be granted. NPC reasons as follows: (a) Under the governing instruction, he was not qualified to participate in the exam cycle; (b) Allowing him to advance would be unfair to other Sailors who were properly barred from taking exams for the same reasons at other commands; and (c) Although it is unfortunate that his exam was invalidated through no fault of his own, a command admission of error is not adequate justification for violation of the policies.

#### CONCLUSION

Upon review and consideration of all the evidence, the Board concludes that Petitioner's request warrants favorable action. The Board determined the following: The Board was convinced that both Petitioner and the Navy were unaware of any deficiencies in his clearance status that would disqualify him from participating in an exam cycle prior to May 2011. His career progression had not been impeded in any way. He had attended schools, transferred, taken advancement exams, advanced

---

<sup>1</sup> Petitioner has since transferred from the command where he took the March 2010 E6/AO1 Navy-wide advancement exam. His previous command did not hold copies of the Plan of the Week (POW) from 2010. However, Petitioner has provided a copy of his current command's POW. The POW's still do not mention anything regarding examination dates or the date on which participants should sign their Worksheets.

and worked in his rating free from any impediment. Once the deficiency was identified, it was rectified, suggesting that if it had been identified earlier, it would have been resolved earlier. Petitioner's commanding officer strongly endorses Petitioner's request and finds that the errors in this case are not attributable to the Petitioner. The Board carefully considered the comments made in enclosure (2). The Board understood that, under the applicable regulations, Petitioner was strictly ineligible to participate in the exam. However, balancing the factors that militate in favor of relief against those that militate against, in the Board's view, the matter he should be resolved in favor of the Petitioner. Therefore, the Board concludes that the record should be corrected to validate Petitioner's E-6/AO1 advancement examinations from the relevant cycles.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, as follows:

a. Petitioner's E-6/AO1 September 2008, March 2009, September 2009, and March 2010 Navy-wide advancement examinations will be revalidated.

b. Petitioner will receive PNA points from the September 2008, March 2009 and September 2009, and March 2010 Navy-wide advancement exams.

c. If the PNA points from the re-validated exams will result in Petitioner's advancement from the March 2011 Navy-wide advancement, then he will be advanced to E6/AO1 at the time he would have advanced if no exams had been invalidated.

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

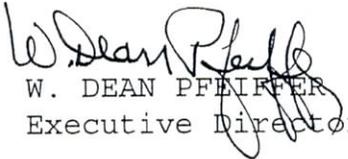
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
WILLIAM J. HESS, III  
Acting Recorder

5. Pursuant to the delegation of authority set out in enclosure (3) and having assured compliance with the provisions of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723), it is hereby announced that the foregoing corrective action, has been approved by the Board on behalf of the Secretary of the Navy.

11 October 2011

  
W. DEAN PFEIFFER  
Executive Director