



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, Suite 1001  
ARLINGTON, VA 22204

JET  
Docket No. NR5936-14  
29 Oct 14

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) CNO memo 7220 Ser N130D/14U0002 of 6 Jan 14  
(3) OCNO Policy Decision Memorandum (PDM) 008-13 of  
26 Apr 13  
(4) BCNR ltr JBH Docket No. NR8860-13 of 11 Mar 14  
(5) LS1 Baker's late rebuttal of 8 Apr 14  
(6) CNO memo 7220 Ser N130D/14U0936 of 16 Jul 14

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 Sea Duty Incentive Pay-Back-to-Back (SDIP-B).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 22 October 2014 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 March 2013 Petitioner was stationed aboard USS REUBEN JAMES, and Petitioner was a second class petty officer at

the time. Petitioner claims that "I qualified for SDIP due to back to back Sea Duty IAW NAVADMIN 231/12. My prior command submitted the request for me to receive SDIP but it was denied because of HYT". However, Petitioner failed to provide copies of the paperwork. Petitioner received orders on 29 March 2013 to the USS ELROD, and he claims that while in transit he found out that he still qualified for the SDIP and that he has provided supporting documents. See enclosure (1). However, as previously stated, Petitioner received his order on 29 March 2013 and he submitted the Enlisted Personnel Action Request (NAVPERS 1306/7) on 10 April 2013.<sup>1</sup>

c. On 23 August 2013 Petitioner applied to the Board to correct his record to establish entitlement to SDIP-B claiming that while in transit to his new command the USS ELROD, he discovered that he was still eligible for the SDIP. Petitioner claims that " I reviewed the message about SDIP and found that I still qualify since I am not getting paid (Frocked) for E-6 and because of my promotion I can fulfill my orders and complete the minimum requirement of 24 months to be able to receive SDIP." However, enclosure (1) is the only documentary evidence Petitioner submitted to support his claim of why he felt he was eligible for the SDIP.

d. In enclosure (2), the office having cognizance over the subject matter recommended the request be denied, noting that the main disqualifying factor that Petitioner did not qualify for the SDIP-B pay was because he did not submit the Enlisted Personnel Action Request (NAVPERS 1306/7) prior to selection for follow on sea tour orders.

e. On 10 March 2014, Petitioner's case was presented before the Board, and the Board determined that the evidence submitted was insufficient to establish the existence of probable material error or injustice. On 11 March 2014, Petitioner was mailed a letter notifying him of the Board's decision. See enclosure (4).

f. On 9 April 2014, BCNR received Petitioner's late rebuttal (see enclosure (5)) to enclosure (2). However, Petitioner's case had already been presented before the Board and denied on 10 March 2014. Petitioner essentially claims that

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<sup>1</sup> Enclosure (3), OPNAV Policy Decision Memorandum (PDM) 008-13 dated 26 Apr 13, states, para. 6.b. To be eligible for SDIP, a Sailor must: (5) Have requested and been approved for an SDIP Extension or Curtailment prior to receipt of follow-on Permanent Change of Station (PCS) orders."

the reasons for submitting his NAVPERS 1306/7 late are unique. Petitioner claims "It was late due to the fact that I was supposed to be processed of the Navy for High Year Tenure (HYT), so I submitted an HYT waiver and got it approved. He was put on standby orders, so he requested shore duty orders as his sea duty time had been fulfilled. However, when Petitioner's orders came through, it was to his current command. Petitioner contacted his detailer and claims he was told "that the only way my HYT waiver would have gotten approved is if I had stayed on sea duty." He immediately submitted his NAVPERS 1306/7 but it was denied because he was unable to fulfill the 24 month sea duty time. Petitioner claims that since he's now picked up first class petty officer, he's currently frocked, it will "enable me to fulfill my two year term and qualify for my SDIP."

g. Petitioner's response was treated as a request for reconsideration and resent to the Officer of the Chief of Naval Operations, N130, the office having cognizance over the subject matter for an advisory opinion. N130 provided an advisory, see enclosure (6), stating that "The documentation does not provide any new information that would support a change to the advisory opinion of 6 January 2014..." See enclosure (6).

#### CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosures (2) and (6), the Board concludes that Petitioner's request warrants favorable action. The Board substantially concurs with Petitioner's statement (enclosure (5)), that Petitioner was in a unique situation being at his HYT. By the time Petitioner's HYT was approved and he found out his HYT would only have been approved if he went back to another ship, it was too late for him to submit the SDIP request because he did not have enough sea duty obligation time. Additionally, the Board concluded that Petitioner did accept orders to another ship and is currently doing back-to-back sea duty in an attempt to achieve the "intent and spirit" of the program, even though he did not submit a request in a timely manner, should receive favorable consideration.

#### RECOMMENDATION:

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

a. Petitioner's Enlisted Personnel Action Request (NAVPERS 1306/7) submitted and dated 10 April 2013 is null and void.

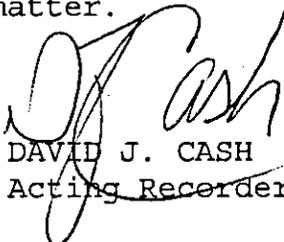
b. Petitioner submitted a 1306/7 dated 26 March 2013 and it was approved by his commanding officer, and that it was then approved by higher competent authority on 28 March 2013.

c. Petitioner is entitled to SDIP-B, at the rate of \$500.00 a month for 24 months (length of Petitioner's current tour length) a total of \$12,000, minus taxes if applicable; to be paid in a lump sum, while attached to the USS ELROD (FFG 55) commencing on or about 20 May 2013.

d. Note: In accordance with the guidance of PDM 008-13 dated 26 Apr 13, Petitioner must first contact his Personnel/Administrative Department and sign and date a written SDIP-B agreement NAVPERS 1070/613 (Page 13) before he can be paid the SDIP. Petitioner's Personnel/Administrative Department should forward a copy of the Page 13 to Navy Personnel Command (NPC) via fax to [REDACTED]

e. 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.

  
DAVID J. CASH  
Acting Recorder

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

  
ROBERT J. O'NEILL  
Executive Director

Reviewed and Approved

12/19/14

  
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