



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

█
Docket No. 7264-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █

Ref: (a) 10 U.S.C. § 1552
(b) BUPERSINST 1430.16G
(c) NAVADMIN 284/19

Encl: (1) DD Form 149 w/attachments
(2) Member Data Summary
(3) History of Assignments
(4) Evaluation ending 15 Mar 19
(5) Enlisted Advancement Worksheet for Cycle 247
(6) Exam Profile Data for Cycle 247 NWA
(7) Command Security Manager memo, 3 Oct 22
(8) Advisory Opinion by Navy Personnel Command, 15 Oct 22
(9) BCNR 30 day notification to Advisory Opinion, 19 Oct 22
(10) Petitioner Rebuttal Statements to Advisory Opinion, 2 Nov 22
(11) Naval Education and Training Professional Development Center email, 1 Dec 22

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to reflect retroactive advancement to Gunner's Mate First Class (GM1)/E-6 from the March 2020 (Cycle 247) Navy Wide Advancement Examination (NWA).

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's application on 8 December 2022. The names and votes of the panel members will be furnished upon request. Petitioner allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of enclosures (1) through (11), relevant portions of Petitioner's 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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. In accordance with references (b) and (c), candidates in a rating requiring a security clearance must have a favorable investigation adjudication issued by the Department of Defense

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Central Adjudication Facility (DODCAF). Joint Personnel Adjudication System (JPAS) must reflect the clearance prior to the first day of the month of the regularly scheduled NWAE for E-4 through E-6 candidates. If the candidate's commanding officer (CO) grants an interim clearance, JPAS must also be updated prior to first day of the month of the regularly scheduled NWAE. Candidates who have a clearance must maintain that clearance eligibility throughout the advancement cycle to be eligible for advancement. If for any reason a clearance is denied or revoked, an exam is not authorized until a new clearance is granted. Reference (c) specifies the "GM" rating required a security clearance.

b. Petitioner advanced to Gunner's Mate Third Class/E-4 effective 6 July 2015 and Gunner's Mate Second Class (GM2)/E-5 effective 16 June 2017. Enclosure (2).

c. On 24 May 2018 Petitioner reported to the [REDACTED] for duty. Enclosure (3).

d. On 15 March 2019 [REDACTED] issued Petitioner his Periodic Evaluation for the period of 3 October 2017 through 15 March 2019 and he received a promotion recommendation of early promote and recommended for retention. Enclosure (4).

e. Petitioner provided the Board with Naval Education and Training Professional Development Center (NETPDC) 1430/3, Advancement in Rate or Change of Rating (Worksheet) for Cycle 247 NWAE that was unsigned but dated 28 February 2020. The worksheet indicated: Security Clearance Met - No; If No, Interim Clearance Met - No; Current Clearance - No Clearance Required-File Created; Current Auth Date - 07/02/2019; and ESO Comments - Exam Eligible. Ensure Interim Clearance Finalized on or Prior to 29 Feb 2020." Enclosure (5).

f. In March 2020 Petitioner participated in the Cycle 247 NWAE and his final multiple score (FMS) was 133.03; minimum multiple required (MMR) for advancement to GM1/E-6 was 127.69. However, Petitioner's exam was invalidated. Enclosures (6) and (11).

g. On 5 August 2020 Petitioner reported to Naval Support Activity (NSA) [REDACTED] for duty. Enclosure (3).

h. On 28 September 2022 Petitioner advanced to GM1/E-6 by Fleet Advancement Rate Change Authority. Enclosure (2).

i. On 3 October 2022 the Command Security Manager, NSA [REDACTED] signs a memorandum indicating Petitioner's security clearance "Investigation Closed: 2020/09/04" and "Adjudication: Secret adjudication completed with a determination of Favorable by DoD CAF on 2020/12/30." However, Petitioner's Member Data Summary reflects a security investigation date of 20 October 2020 and clearance date of 30 December 2020. Enclosures (2) and (7).

j. On 15 October 2022 Navy Personnel Command (PERS-8031) provided an unfavorable advisory opinion to enclosure (1). PERS-8031 recommended disapproval based on Petitioner not having an adjudicated clearance and/or an interim clearance by 1 March 2020. Enclosure (8).

k. On 19 October 2022 Petitioner was provided a copy of PERS-8031 advisory opinion for an opportunity to submit a rebuttal. On 2 November 2022 Petitioner responds that at the time of examination neither he nor his command was notified of the situation. Petitioner goes on to state that he did receive an interim clearance after arriving to his new command. Petitioner asserts all required documents approved before taking the examination for Cycle 247 and he was never notified of the requirement to obtain an updated security clearance at the time. Enclosures (9) and (10).

l. On 1 December 2022 NETPDC confirmed command correspondence was not received regarding the NETPDC Cycle 247 discrepancy correction list. Additionally, NETPDC indicated if the Board grants relief, Petitioner's FMS exceeded MMR for Cycle 247 and the effective date of advancement would be 16 December 2020 with a time in rate (TIR) date of 1 July 2020. See enclosure (11).

MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Majority concluded the Petitioner's request warrants favorable corrective action. In this regard, the Majority determined Petitioner's Command failed to grant him an interim clearance prior to the 1 March 2020 deadline and based on the Petitioner's rating of GM2/E-5 a security clearance was required. Therefore, the Majority felt, under these circumstances, relief is warranted.

MAJORITY RECOMMENDATION

In view of the foregoing, the Board Majority recommends the following corrective action:

An exception to policy-authorized validation of Petitioner's March 2020 (Cycle 247) NWAE.

Petitioner's Examination Profile Information and Exam Status sheet from the March 2020 (Cycle 247) NWAE is modified to reflect Final Status: "ADV 16 December 2020" vice "BUPERS INVALID."

Petitioner advanced to GM1/E-6 effective "16 December 2020" vice "28 September 2022" with TIR date of "1 July 2020" vice "1 July 2022."

That no further correction action be taken on Petitioner's naval record.

That a copy of this record of proceedings be filed in Petitioner's naval record.

MINORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Minority concluded the Petitioner's request does not warrant favorable corrective action. In this regard, the Minority determined there was no error or evidence of injustice. The Minority concluded that the Board was not provided documentation to corroborate that [REDACTED] issued or intended to issue Petitioner with an interim clearance. Additionally, Petitioner has been in the

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Gunner's Mate rating over 7 years and it is not reasonable for him to be unaware of the security clearance requirements for advancement. Furthermore, it is the Sailor's responsibility to be aware of the published advancement requirements. Moreover, the Educational Services Officer's direction on enclosure (5) provided clear direction on the requirement for Petitioner to have an interim clearance finalized prior to 29 February 2020. Therefore, under these circumstances, relief is not warranted.

MINORITY RECOMMENDATION

In view of the foregoing, the Board Minority recommends that no corrective action be taken on Petitioner's naval record.

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that a 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.
5. The foregoing action of the Board is submitted for your review and action.

12/19/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Majority Recommendation (Grant Relief)

Reviewed and Approved Board Minority Recommendation (Deny Relief) X

12/27/2022

[REDACTED]

Assistant General Counsel (M&RA)

[REDACTED]