



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

BJG
Docket No: 1945-01
26 December 2001

AFCS [REDACTED] USNFR
[REDACTED]
[REDACTED]

Dear Senior [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested that your fitness report for 16 April to 10 June 1998 be removed, that your record be corrected to reflect you were advanced to AFCM (pay grade E-9) effective 16 June 1998, and that your record be corrected further to show your transfer to the Fleet Reserve on 30 April 1999 was in the rate of AFCM vice AFCS (pay grade E-8).

The contested fitness report reflects your recommendation for advancement to AFCM, to which you had been frocked, was removed because you failed to maintain the required flight qualifications, while knowingly receiving flight duty pay for such qualifications for about 16 months. You contended it was not your fault that you did not maintain flight qualifications, and that you did not plan or try to deceive anyone.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 December 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 11 May 2001 with enclosures, 9 August 2001 and 12 September 2001, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions in concluding no relief was warranted. They were unable to find any error or injustice in your performance appraisal, nor could they find the withdrawal of your recommendation for advancement was not justified. In view of the above, your

application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures

98 JUN 05

From: [REDACTED]
To: [REDACTED]

Approximately 28 April 1998, PN1(AW) [REDACTED] had prepared the appropriate Special Duty Assignment Pay (SDAP) recertification documentation for those members entitled to draw SDAP. I reviewed it and turned it in [REDACTED]. She inquired as to why Master Chief [REDACTED] and Senior [REDACTED] were not listed for recertification. I returned the paperwork to [REDACTED] for the verification of their flight pay. He reported that Senior [REDACTED] flight pay had stopped due to him receiving a Fleet Reserve date and added Master Chief [REDACTED] the listing for recertification. It was at this time, I realized I did not have a folder for M [REDACTED] indicating his annual flight time and qualifications.

Approximately 30 April 1998, I inquired with Master [REDACTED] about his paperwork. I explained to him that IG was coming up in September and I needed all documentation reflecting the flights he had made between January 1997 and April 1998 in order to justify his entitlement to flight pay. He stated that he would get the time required in order to cover me for IG purposes. I explained I still needed certified flight documentation for the entire period of time, NOT just from 30 April 1998 up to IG in September of 1998.

Approximately one week later I inquired with Master [REDACTED] regarding the required documentation. He stated he had all the information at home and he would bring it to me. I notified [REDACTED] the hold up on our recertification process based on Master Chief [REDACTED] providing the proper documentation. That same week Master [REDACTED] asked me exactly what it was (as far as documentation goes) that he needed to provide in order to justify his flight time for IG purposes. I showed Master [REDACTED] that Senior Chief Reed had been turning into me so he would have a clear understanding of what I required. He stated he would bring all the required documentation to me. During that same week Master [REDACTED] informed me that I could decertify him because he chose not to fly any longer. He stated he had already discussed it with the Executive Officer and decided he did not want to fly any longer.

I began asking questions regarding the requirements to draw flight pay. I checked Master Chief [REDACTED] orders to determine if he was actually detailed in a flight status. They indicated that he was in fact detailed in that manner. I checked his service record to verify whether the required page 13 (from last command) stating he had volunteered for duty involving flight time was there. I found nothing.

Approximately 14 May 1998 I inquired with [REDACTED] again while attending an LCPO meeting. He turned over documentation to me. Included was: five (5) Monthly Individual Flight Activity Reports and two (2) NATOPS Flight Personnel Training/Qualification Jacket OPNAV 3760/32F.

Not having a clear understanding of this documentation, I spoke with [redacted] order to get any assistance he might be able to give. We decided to talk with Master Chief [redacted] gain more information on the requirements of flight pay. He introduced me to Petty Officer [redacted]. During this meeting Petty Officer [redacted] looked over the documentation that Master Chief [redacted] had turned in and stated the farthest forward that he could have banked his time for would have been December 1996. He also stated that a member could bank time from other commands because flight time was flight time, no matter where a member flew. He stated a he could not really make to much sense of the paperwork based on the fact that he did not have the entire history and that some months were missing. He stated as best he could tell, Master Chief [redacted] was at least 15 months in arrears, IF he had not been flying since reporting to EPMAC.

I called VP 94 on 27 May 1998 in order to try and retrieve any flight logs/records showing Master Chief [redacted] flight time. AEC Sansone, VP 94s NATOPS Chief, was my point of contact. When I mentioned Master Chief [redacted] name he said "Who?" He took the SSN and looked into the NALCOMUS computer system to find any information he could regarding this issue and stated that he did not find Master Chief [redacted] name in the system at all. He told me that if we could give him EXACT dates of flights the member took he could go to base OPS and find the flight sheets showing all crewmembers names and provide them to me.

I related this information to Master Chief [redacted]. After this point, I inquired with [redacted] several other times about his paperwork for January 1997 to April 1998. To date I still have not received any documentation for that time frame.

Petty Officer [redacted] met on 3 June 1998 to review Master Chief [redacted] service record page 13 and the original documentation that he had given me to see if Petty Officer [redacted] could determine anything else regarding Master Chief [redacted] flight time. He stated he could not make complete sense of the records without a complete history of Master Chief [redacted] flight times. He stated that IF the 52.2 hours of flight time were applied in a forward motion that Master Chief [redacted] could be covered up to May97 and no further. But without a complete history he could not make a sound decision regarding the 52.2 hours.

On 5 June [redacted] came to my office to look over Master Chief [redacted] NATOPS jacket and the original documentation and determined that there was a lot of paperwork missing and that there was no way possible that [redacted] was covered past May 1997 based on what he saw.

[redacted signature block]

PNC(SW) USN

From: [REDACTED]
To: [REDACTED]

Subj: [REDACTED] FLIGHT RECORDS

1. After reviewing subject members NATOPS Jacket and Service Record the only flight times found to be present were flown in May and June of 1998 for a total of 7.6 hours. [REDACTED] should have flown a minimum of 48 hours since January of 1997. OPNAVINST 3710.7Q requires 4 hours per month and 48 hours flown annually.

[REDACTED]

Sworn before me on this 5th day of June 1998, to be true and correct to the best of my knowledge and belief.

[REDACTED]

MILITARY SUSPECT'S ACKNOWLEDGEMENT AND WAIVER OF RIGHT

Place: EPMAC New Orleans, LA
28 MAY 98

I, RFCM (aw) [REDACTED]

have been advised by [REDACTED] CMAA - EPMAC N.O.

that I am suspected of VIOLATION UCMJ [REDACTED]
OR WRONGFUL APPROPRIATION OF FLIGHT PAY.

I have also been advised that:

- M(1) I have the right to remain silent and make no statement at all;
- M(2) Any statement I do make can be used against me in a trial by court-martial or other judicial or administrative proceeding;
- M(3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;
- M(4) I have the right to have my retained civilian lawyer and/or appointed military lawyer present during this interview; and
- M(5) I may terminate this interview at any time, for any reason.

I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature: [REDACTED]

Date & Time: 28 MAY 98 / 1450

Witnessed: [REDACTED]

28 MAY 98 / 1450

Date & Time: [REDACTED]

At this time, I [REDACTED] desire to make the following voluntary statement. This statement is made with an understanding of my rights as set forth above. It is made with no threats or promises having been extended to me.

SEE ATTACHED STATEMENT

FROM : AE [REDACTED]

SUBJ: FLIGHT TIME QUALIFICATION

I CHECKED IN JAN97 WITH APPROXIMENTLY 58 HRS OF FLIGHT TIME BANKED. THIS I BELIEVE IS IN MY SERVICE RECORD FROM C.O. OF HC-11. I ASKED DURING MY CHECK IN HOW FLIGHT TIME WAS HANDLED HERE ON STAFF DUTY AND WAS TOLD IT'S THE STANDARD 48 HRS A FISCAL YEAR . (1OCT TO 1OCT) I KNEW THAT I WAS GOOD THRU OCT97. I KNOW I NEED 48 FOR 1998 AND HAVE NOT LOGGED THAT TIME AS OF YET. I WAS NOT AWARE THAT MAY IS OR EVER HAS BEEN RECERTIFICATION TIME. FOR 19 YEARS I HAVE ALWAYS DONE FLIGHT TIME ON 1 OCT. LAST YEAR I WAS NOT APPROACHED ABOUT A MAY RECERTIFICATION OR HAVING A FLIGHT LOG FOR THAT MATTER. IN MY COMMUNITY, AIRCREWMAN (ESPECIALLY DETACHMENT CHIEFS MYSELF INCLUDED) HAVE GONE SEVERAL MONTHS NUMERUOS TIMES WITHOUT FLIGHT TIME FOR WHATEVER REASON AND PLAYED CATCH UP AT THE END OF THE YEAR. MY QUALIFICATIONS IE SCHOOLS, AVATION PHYS, AND MEDICAL UP CHIT ARE CURRENT AND HAVE BEEN THAT WAY DURING MY TOUR HERE. I AM AWARE THAT I NEED THE TIME AND DO INTEND TO GET IT. I HAD INFORMED THE X.O. AND THE ADMIN CHIEF SEVERAL WEEKS AGO THAT I WOULD GET CAUGHT UP ON MY TIME BY THE END OF THE FISCAL YEAR AND DID NOT WISH TO RECERTIFY FOR SDAP. BEING ON STAFF DUTY HAS MADE FLYING DIFFICULT AND A SECONDARY ISSUE. THIS IS ONE REASON I PLANNED ON STOPPING, BUT I IN NO WAY WOULD HAVE LET THIS GO IF I HAD KNOWN THAT MAY WAS THE RECERTIFICATION TIME.

[REDACTED SIGNATURE]

John 18



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
9 August 2001

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: AMCS (A) [REDACTED] USN (R) [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 16 April 1998 to 10 June 1998.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. The report is not signed, however, block-46 is annotated with the statement "MEMBER REFUSES TO SIGN 98JUN15".

b. The fitness report in question is a Special/Regular report. The member alleges the report was unjust and a misunderstanding that did not warrant the fitness report or the punishment.

c. The report appears to be procedurally correct. The grades assigned to a fitness report reflect the reporting senior's perception of the subordinate's performance and may certainly be influenced by incidents that occurred during the period of the report. It is perfectly acceptable for the reporting senior to evaluate a member's performance by taking into accounts facts that have been established through reliable evidence to the reporting senior's satisfaction. In this case, the reporting senior made it clear in block-42 Comments on Performance, the reason for preparing the report as he did.

d. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

[REDACTED]

Performance
Evaluation Branch



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1430
Ser 811
12 Sep 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF
AF [REDACTED] USN, (RET [REDACTED])

Ref: (a) BUPERSINST 1430.16E

Encl: (1) BCNR file #01945-01

1. Based on policy and guidelines established in reference (a), enclosure (1) is returned recommending disapproval.
2. Senior Chief [REDACTED] has requested advancement, due to his previous selection for advancement to Master Chief, having been withdrawn.
3. As stated in reference (a), the Commanding Officer may withdraw the advancement recommendation of a member assigned to his command. A fitness report for the period of 16 April 1998 to 10 June 1998 was submitted, to withdraw Senior [REDACTED]'s recommendation for advancement. PERS-311 memorandum of 9 August 2001, states Senior Chief [REDACTED] does not prove this fitness report to be unjust or in error. Based on this information, no relief is recommended regarding this petition.

[REDACTED]

By direction