



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

HD:hd
Docket No: 02243-01
8 March 2002

MR [REDACTED]
[REDACTED]
[REDACTED]

Dear [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, in effect, removal of your failures by the Fiscal Year 97 through 02 Naval Reserve Line Commander Selection Boards, and cancellation of your discharge from the Naval Reserve on 1 June 2001.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 March 2002. 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 8 November and 7 December 2001, copies of which are attached. The Board also considered your letter dated 12 February 2002.

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. While the Board found you were correct that your anniversary years for 1998-1999 and 1999-2000 were satisfactory years for purposes of eligibility for retired pay, they otherwise substantially concurred with the advisory opinion dated 8 November 2001. They were unable to find you received any inaccurate or misleading counseling as to your eligibility to be considered for promotion, or the requirements for retention in the Naval Reserve. 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



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

2243-01

5420
PERS-911
8 Nov 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO LCDR [REDACTED]
[REDACTED] USNR, [REDACTED]

Ref: (a) BCNR memo 5420 PERS-OOZCB of 25 Oct 01
(b) CHNAVPERS ltr 1333 PERS-911 of 19 Jul 95
(c) COMNAVPERSCOM ltr 1920 PERS-911 of 3 Aug 00

Encl: (1) BCNR File No. 02243-01

1. Per reference (a), enclosure (1) is returned with the recommendation that [REDACTED]' petition be denied. We found no errors or injustices resultant from any actions on the part of the Navy, which may have affected his failed of select status.
2. A review of [REDACTED] record reveals that he was commissioned a Naval Officer on 27 May 1981. He served on active duty from 1981 until 1986. In 1986, he resigned his active duty commission and was appointed a Naval Reserve officer. After 2 years of inactivity and a short period of time served in the Standby Reserve-Inactive, he returned to the Ready Reserve and drilled from 1988 until 1993. At that time, LCDR [REDACTED] transferred to the Individual Ready Reserve (IRR) and ceased further unit participation. In 1995, LCDR [REDACTED] was screened for non-participation and responded that he would begin completing correspondence courses to maintain his status in the IRR. He was never transferred to USNR-S1 status, a category used to by PERS-9 to classify key federal employees. He was correctly counseled at that time that he must earn at least 27 retirement points per anniversary year in order to remain in the IRR and that he must earn at least 50 retirement points per anniversary year to earn a qualifying year towards retirement. Reference (b) pertains. Although he earned sufficient points (27) to remain a Ready Reservist, he did not earn sufficient points (50) in any anniversary year to accumulate additional years of qualifying service. Records reveal that [REDACTED]

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO [REDACTED]
[REDACTED] USNR, [REDACTED]

earned only 11 years, five months and 26 days of qualifying service during his 20 years of commissioned service.

3. All members of the Ready Reserve (including the Individual Ready Reserve) are required by law to be considered by promotion boards, whether or not they are actively participating. The zones for promotion boards are published by ALNAV message, as are the results of the boards. Officers are not individually notified. It is ultimately the individual officer's responsibility to be aware of his status and his eligibility for promotion, and to plan accordingly. Our review of [REDACTED] case was that he was correctly considered by the FY-97 through FY-02 promotion boards and failed of selection on each occasion. Specific reasons for his non-selection are not available, as board deliberations are confidential in nature and records are not kept. We can only surmise that his record was not competitive when compared with other eligible candidates when viewed within the numerical constraints placed on selection boards. Certainly, his promotion chances were reduced by his decision not to become an active member of a Naval Reserve unit, where fitness reports document performance.

4. Per Title 10, U.S. Code, Chapter 1407, a lieutenant commander who has at least twice failed of selection and has completed 20 years of commissioned service must transfer to the Retired Reserve, if eligible, or be discharged. [REDACTED] was notified, per reference (c), that he had become subject to the attrition provisions of law and, because he had not earned 20 years of qualifying service, his honorable discharge from the Naval Reserve was required by 1 June 2001.

5. We regret a more favorable recommendation is not possible in this instance. My point of contact is [REDACTED] PERS-91B, at [REDACTED]

[REDACTED]

Deputy Director, Naval Reserve
Personnel Administration Division



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

2243-01

5420
PERS-80
DEC -7 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF
LCDR [REDACTED] USN [REDACTED]

Ref: (a) BCNR memo 5420 PERS-00ZCB of 25 OCT 01
(b) SECNAVINST 1401.1B

Encl: (1) BCNR File 02243-01 w/Service Record

1. Per reference (a) we are returning enclosure (1). The member requests the removal of his multiple failures to select for Commander and be allowed to continue in the Naval Reserve. Based on our observations we concur with the opinion rendered by PERS-911 and recommend that you disapprove Lieutenant Commander [REDACTED] request.

[REDACTED]

Director, Active and Reserve
Officer Career Progression
Division