



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

TRG  
Docket No: 1832-02  
22 November 2002

[REDACTED]

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 November 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 opinion furnished by the Navy Personnel Command, a copy of which is enclosed and your rebuttal thereto.

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.

The Board noted that you were improperly commissioned from the Fleet Reserve and could not complete the 10 years of commissioned service, required by 10 U.S.C. 6323, needed to retire as an officer. The Board considered several possible corrections that would allow for you to retire as an officer but none of the possibilities was considered appropriate to your situation. It is clear that the Board cannot correct your record if the correction is contrary to law. Therefore, the Board substantially concurred with the comments contained in the advisory opinion.

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

The Board is aware that there may be several other officers in your situation. Therefore, it may be appropriate to request private legislation to allow you and others similarly situated to retire as an officer.

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

Enclosure



**DEPARTMENT OF THE NAVY**

**NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000**

1811  
PERS-822/Ser 028  
17 Oct 2001

From: Commander, Navy Personnel Command  
To: [REDACTED]  
Defense Finance and Accounting Service  
Cleveland Center

Subj: RELEASE FROM ACTIVE DUTY AND TRANSFER TO THE FLEET  
RESERVE IN CASE OF [REDACTED]  
[REDACTED]

Ref: (a) 10 USC 6323  
(b) BUPERS ORDER [REDACTED]  
(c) 10 USC 6330

1. You are not eligible to retire as an officer because you have not served at 10 least years of commissioned service as required per reference (a). Therefore reference (b) is modified to read Release From Active Duty Orders and Transfer to the Fleet Reserve effective 1 August 2001.

2. Effective 31 July 2001, your status on active duty was terminated and on 1 August 2001 you were transferred back to the Fleet Reserve under the provisions of 10 USC 6330 (reference (c)) in the grade of Hospital Corpsman Senior Chief (E-8) with retired pay of that grade. Your DD 214 Certificate of Release or Discharge from Active Duty will be modified to reflect a separation code of VBK - completed required active service.

By direction

Copy to:  
[REDACTED]  
NRPC, New Orleans  
Service Record

Encl: D



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

7220  
PERS-822  
1 Aug 02

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]  
[REDACTED]

Ref: (a) NPC memo 5420 PERS-00ZCB of 25 Jun 00  
(b) 10 U.S.C. 6323


Encl: (1) BCNR file

1. Reference (a) request comments and recommendations in subject's case. Specifically, Petitioner requests to be retired as an officer.

2. Reference (b) requires 10 years active commissioned service to retire as an officer. [REDACTED] original retirement request was erroneously processed through PERS-822; while correcting that error, it was discovered he was brought into the Navy as an officer while a member of the Fleet Reserve and only served 5 years, 5 months and 27 days active commissioned service. Even if he was legally commissioned in February 1996, he does not qualify to retire as an officer due to serving less than 10 years active commissioned service.

3. Recommend [REDACTED] continue as a member of the Fleet Reserve, receiving retirement pay based on his total active duty service including his commissioned time.

[REDACTED]  
Asst Branch Head,  
Officer Retirements



Executive Director  
Board for Correction of Naval Records  
2 Navy Annex  
Washington, DC 20370-5100

Re: (1) Docket No. 01832-02  
(2) Yr ltr TRG:jdh, dtd 9 Aug 02 with enclosure

Dear Director,

Thank you for allowing me to read the response from the Assistant Branch Head of Officer Retirements regarding my Application for Correction of Naval Records (DD Form 149), and the opportunity to submit a further statement.

Unfortunately, I cannot submit further "evidence" of why I should be retired as 03E that was not included in my request. I would like to submit a further statement regarding the 'legality' of my commissioning. The process of my selection for commission was not done covertly. I was screened by committees and boards and selected based, I would suppose, on the information I supplied as well as my personal record, which did not hide but pointed sharply to my service of twenty-one years as an enlisted member of the United States Navy. Each person along the way, and some called me personally to talk, seemed to think that prior service would greatly enhance my service as a naval chaplain.

If I indeed do not have the 10 years required to retired as an officer, I certainly have the more than thirty years total active and inactive service to allow me retirement at the highest grade served, that of Lieutenant, Chaplain Corps, United States Navy. I do believe that I have earned this retirement. If my commission is to truly be negated and my commission rescinded, I would hope fairness on the part of the United States Navy would at the very least advance me to Master Chief Hospital Corpsman (Surface Warfare), and retire me at E-9.

Thank you for the attention you have given to my case. I appreciate it from the depths of the salt water that runs through my veins.

Sincerely,

