



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

HD:hd
Docket No: 01151-00
9 February 2001

MR [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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 February 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 2 and 10 May 2000, 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 advisory opinion dated 10 May 2000. They were unable to find you reasonably relied on incorrect information from personnel at the Naval Reserve Personnel Center. In this regard, they noted you provided no statement from the source of the alleged incorrect counseling. 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

1420

PERS-86

02 MAY 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

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

Subj: REQUEST ICO [REDACTED] USNR, [REDACTED]

Encl: (1) BCNR File 00220-00 w/Service Record

1. We are returning enclosure (1) with the following observations and recommendations.
2. [REDACTED] requests removal of two failures of select on the basis that he was not aware that he would be eligible for consideration for promotion while in the Individual Ready Reserve (IRR). He states that he sought guidance from the NAVRESPERCEN IRR help desk and received improper guidance.
3. We recommend forwarding this case to NAVRESPERCEN for an opinion regarding the alleged improper guidance.
4. In the event that NAVRESPERCEN determines that improper guidance was given we would consider recommending removal of the failures.
5. However, mere removal of the failures of select will not provide the relief sought in this case because, in our opinion, [REDACTED] record will not be competitive for promotion without observed reports of fitness. Not only must the failures be removed, but reports of fitness must also be made available.

Subj: REQUEST [REDACTED], USNR, [REDACTED]

6. Since reports of fitness are not available, then the only relief that may be granted is to provide a period of additional time that the petitioner can drill as a member of the Selected Reserve. Such action can only be possible if the petitioner requests the further relief of having the record corrected to show that he was assigned to the Inactive Reserve (S-2) during a period of time not to exceed three to four years, and a date of rank adjustment per 10 USC § 741(d)(3) upon the resultant constructive reinstatement on the Reserve Active Status list. We recommend that this case be forwarded to PERS-9 for an advisory opinion regarding the petitioner's status, in the event he requests further relief.

7. In the event that [REDACTED] requests and is granted further relief as discussed above, he would then have the opportunity to return to a drilling status, and obtain reports of fitness that may make his record competitive for promotion.

[REDACTED]

Director, Reserve Officer
Promotions, Appointments, and
Enlisted Advancement Division



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5730
PERS-911
10 May 00

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

Via: Assistant for BCNR Matters (PERS-OOZCB)

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

Ref: (a) BCNR memo 5420 PERS-OOZCB of 20 March 00
(b) Title 10, U.S. Code, Section 12465
(c) Title 10, U.S. Code, Section 14505

Encl: (1) BCNR File No. 01151-00

1. Per reference (a), enclosure (1) is returned with the recommendation that [REDACTED]'s petition be denied. [REDACTED] is requesting retention in the Naval Reserve vice statutory separation due to multiple failures of selection.

2. [REDACTED]'s record shows that he was commissioned a Naval Reserve officer in October 1988 and served on active duty from October 1988 through March 1993. Upon release from active duty, he was assigned to the Individual Ready Reserve (IRR) component of the Ready Reserve and was placed on the Reserve Active Status List (RASL). While on the RASL, [REDACTED] was appropriately considered by both the FY-99 and FY-00 lieutenant commander selection boards and failed of selection both times. He was subsequently discharged on 1 April 2000 due to multiple failures of selection for promotion.

3. Reference (b) requires that all members of the Ready Reserve, including IRR members, be considered for promotion regardless of their participation. The zones for promotion boards are published by ALNAV message, as are the results of the boards. Naval officers are not individually notified of eligibility before a promotion board. It is ultimately the individual officer's responsibility to be aware of his Reserve status and eligibility for promotion, and to plan accordingly. [REDACTED] has been a member of the Ready Reserve since leaving active duty and was therefore eligible for consideration by both promotion boards.

1151-00

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

4. Per reference (c), a lieutenant who has at least twice failed of selection for promotion and has completed his eight-year military service obligation must transfer to the Retired Reserve, if eligible and requested, or be discharged. Because [REDACTED] had earned only five years of qualifying service, he was not eligible for transfer to the Retired Reserve and therefore, was honorably discharged from the Naval Reserve on 1 April 2000.

5. Regretfully, we were required by law to discharge [REDACTED] in spite of his excellent record. We find no error or injustice in this case. We recommend that his case be forwarded to Commanding Officer, Naval Reserve Personnel Center for comment regarding the alleged erroneous counseling.

6. My point of contact for further information pertaining to this case [REDACTED] at (90 [REDACTED]).

[REDACTED]
[REDACTED]
[REDACTED]
Captain, U.S. Naval Reserve
Director, Naval Reserve Personnel
Administration Division