



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

JLP:ddj  
Docket No: 5186-02  
24 September 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 24 September 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 CNO memorandum 5420 Ser N130D/000212 of 30 August 2002, a copy of which is 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 opinion. Accordingly, 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

Enclosure



DEPARTMENT OF THE NAVY  
OFFICE OF THE CHIEF OF NAVAL OPERATIONS  
2000 NAVY PENTAGON  
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO  
5420  
Ser N133D/ 000212  
AUG 30 2002


MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL  
RECORDS


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

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF  


Ref: (a) SECNAVINST 7220.80E

Encl: Docket Number 05186-02

1. Forwarded, recommending disapproval.
2. On 19 June 1998, Petty Officer  reached his 12 Year Submarine Career Screening Gate (YRGT) date based on his Submarine Service Entry Date (SSED) of 19 June 1986. He earned 64 months Total Operational Submarine Service (TOSS) by June 1998, eight months short of the required 72 months TOSS. Per reference (a), entitlement to CONSUBPAY stops at this point for any submarine Sailor who did not have at least 72 months of TOSS upon reaching his 12 YRGT.
2. Member was assigned shore duty of his choice in Kings Bay, Georgia on 19 November 1999 where he knowingly did not draw CONSUBPAY for three years. His CONSUBPAY stopped on 23 June 1998 upon failure to meet 12 YRGT date and was subsequently paid OPSUBPAY until detaching from the submarine USS NEBRASKA (SSBN 739 BLUE) on 03 November 1999. Since he did not receive CONSUBPAY during the subsequent shore tour, there has been no Family Hardship due to recoupment of pay.
3. A thorough review of his career history indicates that he did not have sufficient TOSS for continued entitlement to CONSUBPAY. Reference (a) explicitly disallows waivers for insufficient TOSS.

  
Submarine Pay  
Program Manager