



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

DJC
Docket No. 7602-09
26 Feb 2010

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NAVADMIN 240/08 of 28 August 2008
(3) Reenlistment Request form
(4) NAVADMIN 050/09 of 10 February 2009
(5) NPC Memo 1160 Ser 811/566 dtd 17 Aug 09
(6) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to establish entitlement to a zone "A" Selective Reenlistment Bonus (SRB).

2. The Board, consisting of
[REDACTED], reviewed Petitioner's allegations of error and injustice on 11 January 2010 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In late 2008, applicant was an Aviation Structural Mechanic Petty Officer Third Class (AM3) on active duty with an End of Obligated Service (EAOS) date of 27 July 2009.

c. On 28 August 2008, NAVADMIN 240/08 was published announcing Selective Reenlistment Bonus (SRB) award levels for Active and Reserve component personnel. The NAVADMIN listed an award level of 1.0 for members with an AM rating who reenlist in zone A. Increased award levels were effective immediately and decreases were effective 30 September 2008. Under the guidance announced by NAVADMIN 240/08, "Commands must submit SRB requests via OPINS (Officer Personnel Information System) 35-120 days in advance of the sailor's EAOS or reenlistment date to ensure the approval or disapproval message will reach the sailor's command and the Defense Finance and Accounting Service before the reenlistment date." See enclosure (2).

d. On 1 October 2008, Petitioner became entitled to Hostile Fire/Imminent Danger Pay and Combat Zone Tax Exclusion due to deployment onboard USS Roosevelt CVN 71 in the Persian Gulf theatre of operation.

e. On 21 January 2009, Petitioner submitted a reenlistment request form for routing through the chain of command. Petitioner requested authorization to reenlist on 3 March 2009 for a term of 3 years. See enclosure (3).

f. On 23 January 2009, the Commanding Officer approved the member's reenlistment request.

g. On 10 February 2009, NAVADMIN 050/09 was published announcing revised SRB award levels and superseding NAVADMIN 240/08. Increases in awards levels became effective immediately and decreases in award levels became effective on 11 March 2009. Under NAVADMIN 050/09, Petitioner's award level would decrease from 1.0 to 0.0 on 11 March 2009. See enclosure (4).

h. On 3 March 2009, the Command submitted the reenlistment bonus request through the Officer Personnel Information System (OPINS). Note: the OPINS request was not submitted until 39 days after the Commanding Officer approved the member's reenlistment request.

i. On 7 March 2009, the OPINS request for an SRB was denied by the Navy Personnel Command (NPC) because the command had failed to submit the request into OPINS at least 35 days prior to the requested reenlistment date.

j. On 9 March 2009, the member reenlisted for 3 years. The member did not receive a Selective Reenlistment Bonus.

k. The member's entitlement to Hostile Fire/Imminent Danger Pay and Combat Zone Tax Exclusion ended effective 31 March 2009.

1. On 16 July 2009, Petitioner submitted an application to this Board averring, essentially, that the failure to submit his SRB request into OPINS 35 days in advance of his reenlistment date was through no fault of his own and should be attributed to a failure of his command. To bolster his application, he submitted a letter from his Commanding Officer stating that [REDACTED] did everything correctly with his paperwork, but inefficient contact between the USS Roosevelt counselor and FRC Mid-Atlantic Counselor delayed his request...(he) should not be held accountable for the mishap that occurred. He reenlisted in good faith that he would receive his bonus."

m. By enclosure (5), the Navy Personnel Command (NPC) has provided a recommendation that no relief be granted that would provide the member a reenlistment bonus. NPC reasons that the SRB request was not entered into OPINS at least 35 days in advance of the requested reenlistment date as required by the governing NAVADMINS.

CONCLUSION

Upon review and consideration of all the evidence of record, and notwithstanding the opinion expressed in enclosure (5), the Board finds the existence of an injustice warranting corrective action. The Board relied heavily on the following factors: Petitioner submitted his reenlistment request to his command on 21 January 2009, well ahead of his EAOS (27 July 2009) and well ahead of his requested reenlistment date (of 3 March 2009). His command was unable to submit his reenlistment request into OPINS until 3 March 2009 (39 days after it was approved by the commanding officer) because of command errors in the processing of the request. If the SRB request had been entered in OPINS in a more timely manner, Petitioner would have been authorized to reenlist for a bonus with an award level of 1.0. The delay in submitting the SRB request into OPINS was not attributable to the Petitioner. Under these circumstances, the Board was of the opinion that the member should not be penalized for the inability of his command to submit the request into OPINS in a more timely manner and that relief should be granted to authorize the payment of an SRB with an award level of 1.0.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. Petitioner's command submitted a request via OPINS on 23 January 2009 seeking authorization for Petitioner to reenlist for an SRB.

b. The Navy Personnel Command approved the request to reenlist for an SRB.

c. Petitioner was discharged on 8 March 2009 and reenlisted, on 9 March 2009. The term is 3 years.

d. This change will entitle the member to a zone "A" SRB with an award level of 1.0 for the AM rate. Remaining obligated service to 27 July 2009 will be deducted from SRB computation.

e. Petitioner's command must submit the tax free data code to DFAS for determination of tax free eligibility.

f. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

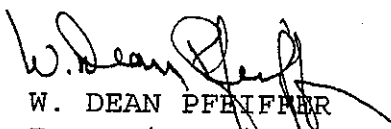
ROBERT D. ZSALMAN
Recorder

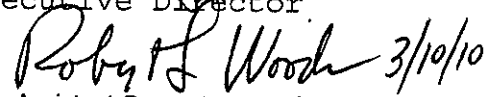

WILLIAM J. HESS, III
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.

26 February 2010

Reviewed and approved.


W. DEAN PFEIFFER
Executive Director

 3/10/10
Assistant General Counsel
Manpower and Reserve Affairs)