



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

MEH
Docket No. 12805-09
19 Mar 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) CNO memo 7220 N130D/10U0148 of 18 Feb 10
(3) Excerpts of 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 an Enlistment Bonus (EB) for Source Rate (EBSR).

2. The Board, consisting of reviewed Petitioner's allegations of error and injustice on 1 March 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. Petitioner served in the United States Marine Corps from 26 January 1998 to 25 July 2002 when he was released from active duty honorably. He remained in the United States Marine Corps Reserve and served on active duty between 28 February 2003 to 30 June 2003, when he was released from active duty honorably.

c. After a break in active service of approximately 5 years he enlisted in the United States Navy on 11 February 2008.

d. On 11 February 2008, Petitioner executed Annex A to DD Form 4 Dated 20080211 (NAVCRUIT 1133/52), with the following enlistment guarantees: Option (1) Naval Special Warfare Combatant-Craft Crewman

Challenge Guarantee; and Option (2) \$35,000 Special Operations Enlistment Bonus Guarantee.

e. As Petitioner was an "Other Service Veteran" (OSVET), with prior enlisted time, he was not required to attend "boot camp" at the Navy Recruit Training Command (RTC), Great Lakes. However, he was ordered to RTC for a transition period. While at RTC, he made a decision to change his program from Naval Special Warfare Combatant-Craft Crewman Challenge (SWCC) to Explosive Ordnance Disposal (EOD).

f. On 28 July 2008 Petitioner signed a Page 13 acknowledging that his request to change programs from SWCC to EOD had been approved. The Page 13 did not address enlistment bonuses.

g. OPNAVINST 1160.9, Paragraph 11, Section b, states "Page 13 entries cannot be used to create an EB contract or to modify or supersede an existing contract."

h. Petitioner alleges he was told the EOD program guaranteed the same EB as the SWCC program. (This information is incorrect. The SWCC EB is \$35,000, the EOD EB is \$40,000). He also states he was under the impression he would still be entitled to an enlistment bonus even though he changed programs.

i. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has recommended the request be denied. Under the Enlistment Bonus policy delineated in OPNAVINST 1160.9, Petitioner was not eligible for an EB because "Page 13 entries cannot be used to create an EB contract or to modify or supersede an existing EB contract." Petitioner has no Annex B or other documentation in his records that would establish entitlement to an EB for the EOD program.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (2), the Board finds the existence of an injustice warranting the requested relief. The Board found essentially that the program change bonus was memorialized on the wrong form. If the reclassification had followed proper procedures, Petitioner's Annex A to DD Form 4 dated 20080211 would have been superseded and replaced with Annex B (vice a Page 13) and would have included a bonus. This error was not attributable to the Petitioner. The Board found that Petitioner signed the Page 13 in good faith, under the assumption he would be eligible for a bonus. Under these circumstances, the Board recommends the following corrective action.

RECOMMENDATION:

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

a. On 28 July 2008 Petitioner executed an Annex B to DD Form 4 dated 20080211, with the following enlistment guarantees:

- Option (1) Explosive Ordnance Disposal (EOD) Program Guarantee
- Option (2) Enlistment Bonus for Source Rate (EBSR) \$40,000

b. The EB entitlement will be paid by Navy Personnel Command (PERS-811).

c. 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
WILLIAM J. HESS, III
Acting Recorder

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

W. Dean Pfeiffer
W. DEAN PFEIFFER
Executive Director

The Board's recommendation is approved.

Robert L. Wood
Assistant General Counsel
(Manpower and Reserve Affairs)

4/1/10