



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 829-17
JAN 16 2018

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

Subj: RECORD OF PROCEEDINGS ICO [REDACTED] USNR,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149
(2) NAVPERS 1000/4 Eff 7 Aug 09
(3) FITREP (1 Feb 12 – 3 Aug 12)
(4) Navy and Marine Corps Commendation Medal Certificate of 26 Jul 12
(5) Navy Hotline [REDACTED]
(6) SECNAV Action Memo of 2 Dec 14
(7) PERS-8 email to BCNR of 6 Nov 17
(8) PERS-833 email to BCNR of 20 Dec 17
(9) Petitioner email to PERS-97 (CTO) of 22 Aug 14
(10) DD Form 214 Eff 1 Dec 14
(11) [REDACTED]
(12) PERS-97 (CTO) email to [REDACTED]
(13) NPC ltr 1331 PERS-911C of 8 Mar 16
(14) NRC HQ email to [REDACTED]
(15) NAVPERS 1000/4 Eff 7 Jan 17
(16) NAVPERS 1200/1 Eff 11 Jan 17
(17) NPC memo 5420 PERS-806 of 21 Apr 17
(18) Petitioner's Rebuttal Statement of 26 May 17
(19) NPC ltr 5730 Ser 00LCB 17U000853G of 3 Apr 17
(20) NSIPS Member Data Summary

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting that her applicable naval record be corrected to reinstate her promotion to Lieutenant Commander (LCDR) (O4).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 December 2017 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 enclosures (1) through (20), relevant portions of Petitioner's 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 was appointed as a Lieutenant (LT) (O3) in the United States Navy on 7 August 2009. See enclosure (2).

c. Petitioner received an Early Promote fitness report for the reporting period 1 February 2012 through 3 August 2012. See enclosure (3).

d. Petitioner was awarded a Navy and Marine Corps Commendation Medal on 26 July 2012 for her end of tour award; September 2009 through September 2012. See enclosures (4).

e. On 13 November 2012, Naval Inspector General Report of Investigation substantiated that on 15 June 2012, the Petitioner failed to follow routine command directed mental health evaluation referral procedures for an enlisted Sailor. See enclosure (5).

f. July 2013, Secretary of the Navy (SECNAV) withheld Petitioner from the Fiscal Year 2014 (FY14) Active Duty Navy Lieutenant Commander Staff Corps Promotion List for further review of her record. See enclosure (6).

g. Petitioner indicated she voluntarily requested to resign her active duty commission in April 2014. The resignation letter included a request for a Reserve Component (RC) appointment to fulfill her military service obligation. No evidence of Petitioner's original request to resign could be located in her Official Military Personnel File. See enclosure (18).

h. Petitioner indicated she was approved to resign her commission in July 2014. Following the approval, Petitioner was engaged with the Career Transition Office (CTO) on the process to affiliate with the Navy Reserve. See enclosure (1).

i. On 7 August 2014, adverse information regarding Petitioner was included on the Active Component to RC Adverse Information Memorandum; therefore the scroll was not initiated. See enclosures (7) and (8).

j. On 22 August 2014, Petitioner emailed CTO regarding the process of receiving her Reserve Oath of Office. CTO advised the Petitioner the Reserve Oath will be forwarded upon being approved by Secretary of Defense. See enclosure (9).

k. On 1 December 2014, Petitioner resigned her commission without an approved RC appointment or Reserve obligation. See enclosure (10).

l. On 2 December 2014, SECNAV recommended Petitioner for promotion to LCDR/O4. See enclosure (6).

m. On 3 March 2015, Senate confirmed Petitioner's promotion to LCDR/O4. See enclosure (11).

n. Following the Petitioner requesting several updates on the status of her RC appointment, on 9 September 2015, CTO advised her she would need to request reappointment via Navy Recruiting Command (NRC) as a result of being separated from active duty for over 6 months. See enclosure (12).

o. On 8 March 2016, Navy Personnel Command (PERS-911C) notified the Petitioner her request for RC appointment was approved and forwarded to her recruiter for processing. Thereafter, on 20 October 2016, NRC Headquarters notified the Petitioner of her promotion and its invalidation as a result of her break-in-service. See enclosure (13) and (14).

p. After over two years of following-up with CTO and NRC, Petitioner received her RC appointment as a LT/O3 effective 7 January 2017 and an approved Ready Reserve Transfer Request Service Agreement effective 11 January 2017. See enclosures (15) and (16).

q. On 21 April 2017, Navy Personnel Command (PERS-806) provided an unfavorable advisory opinion to enclosure (1). PERS-806 recommended disapproval of relief based on having a break-in-service. Petitioner resigned her active duty commission effective 1 December 2014, and had not been approved for an RC appointment on 3 March 2015 when Senate confirmed her promotion to LCDR/O4. See enclosure (17).

r. On 26 May 2017, Petitioner provided a statement in response to PER-806 findings questioning why she was never notified of the adverse matters. Additionally, the Petitioner provided supplemental documentary material in support of her application. See enclosures (18) and (19).

s. On 3 November 2017, Petitioner voluntarily transferred to the Individual Ready Reserve-Active Status Pool. See enclosure (20).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of errors and injustices, and unanimously concluded the Petitioner's request warranted favorable corrective action.

The Board placed considerable weight on the fact that there was no administrative or punitive action taken against the Petitioner to include withdrawing her recommendation for promotion. Moreover, the Petitioner's name was never removed from the FY14 Active Duty Navy Lieutenant Commander Staff Corps Promotion List and her nomination to LCDR/O4 was confirmed by Senate on 3 March 2015.

While finding the Petitioner's Reserve appointment and affiliation process untimely, the Board considered the Petitioner's eagerness and persistence to affiliate with the Navy Reserve of particular significance.

In view of the foregoing, the Board recommends the following corrective action be taken as set forth below.

RECOMMENDATIONS

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

The DD Form 214, Certificate of Release or Discharge from Active Duty executed on or about 1 December 2014 is modified to read block 6 (Reserve Obligation Termination Date) "6 August 2017" vice "N/A", and block 12b (Separation Date this Period) "2 December 2014" vice "1 December 2014".

Petitioner executed NAVPERS 1000/4, Officer Appointment Acceptance and Oath of Office on 3 December 2014 vice 7 January 2017.

Petitioner executed NAVPERS 1200/1, Ready Reserve Transfer Request Service Agreement on 3 December 2014 vice 11 January 2017.

Petitioner earned 44 non-pay service credit points for anniversary year 3 December 2014 to 6 August 2015. Combined with her time on active duty, the Petitioner will earn a qualify year of service towards a reserve retirement.

In accordance with the 3 March 2015 Senate Confirmation, Petitioner was promoted to the rank and grade of LCDR/O4 effective 1 January 2014.

Petitioner earned 50 non-pay service credit points for anniversary year 7 August 2015 to 6 August 2016, completing 1 satisfactory year towards a reserve retirement.

Petitioner earned 31 non-pay service credit points and 21 inactive duty training (IDT) points for anniversary year 7 August 2016 to 6 August 2017, completing 1 satisfactory year towards a reserve retirement.

Note: Petitioner is entitled to retroactive active duty pay and allowances at the pay grade of LCDR/O4 from 1 January 2014 through 2 December 2014. Furthermore, Petitioner is entitled to retroactive IDT pay at the pay grade of LCDR/O4 from 11 January 2017 through 13 August 2017.

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[REDACTED]

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a 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.

[REDACTED]
Recorder

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

[REDACTED]
Executive Director

Reviewed and Approve the Board's Recommendation (approve relief)

Reviewed and Disapprove the Board Recommendation (deny relief)

[REDACTED]
Signature

3/8/18
Date