



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

██████████
Docket No. 6422-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████ USN,
XXX-XX ██████████

Ref: (a) 10 U.S.C. § 1552
(b) OPNAVINST 1306.2K, Command Senior Enlisted Leader Program, 16 July 2021
(c) BUPERSINST 1430.16G, Advancement Manual for Enlisted Personnel of the U.S. Navy and U.S. Navy Reserve, 19 September 2018 (with Change 1, 7 February 2022)

Encl: (1) DD Form 149 w/enclosures
(2) NAVADMIN 208/22, subj: Call for FY-24 Command Master Chief and Command Senior Chief Screen Board Membership and Applications, dtg 161754Z SEP 22
(3) NAVPERS 1306/7, 11 September 2022
(4) NAVADMIN 275/22, subj: FY-24 Reserve Component Enlisted Advancement Selection Boards for Command Master Chief, Master Chief and Senior Chief Petty Officer, dtg 091347Z DEC 22
(5) Petitioner's Examination Profile Sheet (entries from 12 December 2022 and 3 March 2023)
(6) NAVADMIN 049/23, subj: FY-24 Command Senior Chief Screen Board Results (Corrected Copy), dtg 211651Z FEB 23
(7) BUPERS Memo 1212 Ser B3/1054, subj: Advisory Opinion in the case of [Petitioner], 24 October 2024
(8) NPC Memo 1430 PERS 803/535, subj: Advisory Opinion ICO [Petitioner], 21 November 2023
(9) BUPERS-352 Reserve Enlisted Community Manager E-mail, subj: CMDCM/CMDCS, sent Friday, March 17, 2023 @ 2:05PM
(10) Petitioner's Memo, subj: Enlisted Special Selection Board, Request, 22 March 2023
(11) ██████████ CO Memo 1406 Ser N00/127, First Endorsement on Enclosure (10), subj: Enlisted Special Selection Board Request, 28 March 2023
(12) NPC Memo 1430 Ser 80/210, subj: Request for FY-24 Reserve E-9 Enlisted Special Selection Board, 16 May 2023
(13) Petitioner's Memo, subj: Statement Concerning Advisory Opinion, 15 December 2023

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records, hereinafter referred to as the Board, requesting a Fiscal Year (FY) 2024 Reserve E9 Enlisted Special Selection Board (SSB) in his source rate of Master-at-Arms (MA).

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2. The Board considered Petitioner's allegations of error or injustice on 28 March 2024 and, pursuant to its governing policies and procedures, found an injustice warranting relief. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record; and applicable statutes, regulations, and policies.

3. Having reviewed all the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board finds as follows:

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

b. On 16 September 2022, the Navy published guidance for the FY 2024 Command Master Chief (CMDCM) and Command Senior Chief (CMDCS) Screen Board, which was scheduled to convene on 30 January 2023.¹ This guidance established a deadline on 1 November 2022 to apply for consideration for the CMDCM/CMDCS program. See enclosure (2).

c. On 10 October 2022, Petitioner submitted his formal request for assignment to the Command Senior Enlisted Leader (CSEL) program.² In making this request, he acknowledged that he would be made eligible for transfer into a CSEL position as early as 1 October 2023 and not later than 1 April 2024 if selected. This request was endorsed by his command on 12 October 2022. See enclosure (3).

d. On 9 December 2022, the Navy published guidance for the FY 2024 Reserve Enlisted Advancement Boards for CMDCM, Master Chief Petty Officer (MCPO) (E-9), and Senior Chief Petty Officer (SCPO) (E-8). This guidance announced 6 March 2023 as the convene date for the MCPO and SCPO (in rate) advancement boards. See enclosure (4).

e. On 12 December 2022, Petitioner was certified as eligible for consideration by the FY 2024 Reserve E8/E9 Advancement Board based upon his completion of the MA MCPO (MACM) examination. See enclosure (5).

f. On 21 February 2023, the results of the FY 2024 CMDSC Screen Board were announced. Petitioner was among those selected for assignment as a CMDSC. See enclosure (6).

¹ Paragraphs 3 and 4 of this announcement updated the eligibility criteria of reference (b).

² This request complied with the requirements of reference (b). Specifically, it included the required NAVPERS 1070/613 with the following statement required by Appendix A of reference (b):

I desire to serve as a command master [senior] chief. I am worldwide assignable and, if selected, I will incur sufficient obligated service upon receipt of orders to complete my initial tour of 36 months (unless otherwise specified to satisfy DoD area requirements) as a command master [senior] chief. I fully understand that my application for this program is my duty preference and I will accept orders to any Navy enlisted classification (NEC) code 8CMC [8CSC] SELRES requirement if selected. If selected, I will voluntarily take an assignment to a vacant Reserve Component SELRES 8CMC [8CSC] billet and serve in the capacity of a command master [senior] chief.

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g. Per reference (b), “[a]ctive duty SCPOs selected by the CMDSC lateral conversion board will have their rating changed to CMDCS upon selection and will also become immediately eligible for promotion to CMDCM [subject to other satisfaction of other requirements]. They will not be awarded the 8CSC [Navy Enlisted Classification (NEC)], wear the CMDCS identification badge, nor be detailed to a CMDCS billet until they have successfully completed the CMDCM or [Chief of the Boat (COB)] course.”³ In accordance with this provision, Petitioner’s rating changed to CMDCS upon his selection. According to BUPERS-3, this change rendered Petitioner ineligible for consideration for advancement to MCPO in his source rating (MACM), but he should have become immediately eligible for promotion to CMDCM. See enclosure (7).

h. On 3 March 2023, three days prior to the convening date of the FY 2024 Reserve E8/E9 Advancement Board, Petitioner’s profile sheet was invalidated for consideration by that board by the Bureau of Naval Personnel (BUPERS) due to his selection for assignment as a CMDCS. See enclosures (5) and (8).

i. The FY 2024 Reserve E-8/E-9 (in rate) Advancement Board selection board convened on 6 March 2023. Petitioner was not consider by this board for advancement to MACM due to the change of his rating to CMDCS and the BUPERS-directed invalidation of his profile sheet (see paragraph 3h above).

j. In early 2023, BUPERS-352 initiated a new management process to better track Select Reserve (SELRES) personnel selected for CMDCS who have not yet completed the CMDCM course. Specifically, BUPERS-352 now assigns the Target Reentry Program (TRP) Manpower Availability (MAS) code to SELRES personnel selected to CMDCS to indicate that they have not yet completed all of the requirements to be fully qualified for the new rating.⁴ See enclosure (7). Petitioner was notified that his records were being upgraded pursuant to this process by e-mail dated 17 March 2023. See enclosure (9).

k. By memorandum dated 22 March 2023, Petitioner requested an Enlisted SSB for the FY 2024 Reserve E8/E9 (in rate) Advancement Board, asserting that he was precluded from proper consideration for selection to MCPO after his eligibility for the FY 2024 Reserve E8/E9 (in rate) Advancement Board was verified on 12 December 2022 (see paragraph 3e above). He asserted that it was the BUPERS-352 decision to temporarily rate him as a CMDCS and assigned a TRP MAS code for inventory tracking purposes which invalidated him for consideration, and that he should have been considered in his source rating by the FY 2024 selection board and if selected allowed to laterally convert over (pursuant to his selection by the FY 2024 CMDSC Screening Board) after 1 October 2023. See enclosure (10).

l. By memorandum dated 28 March 2023, the Navy Reserve Center [REDACTED] commander asserted that Petitioner was improperly precluded from consideration for selection to MCPO by

³ See paragraph 2 of Chapter 4 to reference (b).

⁴ The TRP MAS code is used to assist in determining and tracking the pre-mobilization administrative status of SELRES personnel. According to BUPERS-3, the TRP MAS code is not an indicator of advancement eligibility and therefore should not have precluded Petitioner from being eligible for advancement to CMDCM. See enclosure (7).

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the FY 2024 RC E8/E9 board, and gave his “strongest possible endorsement” for his selection into the CSEL program. He “highly implore[d]” Navy Personnel Command (NPC) (PERS-92) to grant Petitioner’s SSB request. See enclosure (11).

m. By memorandum dated 16 May 2023, Petitioner was informed that his request for a SSB was reviewed but disapproved by the Deputy Chief of Naval Personnel (CNP). This memorandum noted that enlisted SSBs are authorized for “individuals who were eligible, but not properly considered through the normal selection board process due to circumstances beyond their control and not the direct or indirect result of their error, delay, or omission” in accordance with reference (c), and that Petitioner was not considered by the FY 2024 Reserve E8/E9 Advancement Board because he was selected as a CMDCS and his profile sheet was therefore invalidated. It also opined that Petitioner was properly removed from consideration by the FY 2024 Reserve E8/E9 Advancement Board in his former rate in accordance with reference (b). See enclosure (12).

n. Petitioner asserts to the Board, as he did in his unsuccessful request for an SSB, that BUPERS actions of temporarily assigning him a temporary rating of CMDCS and assigning the TRP MAS code for inventory tracking purposes conspired to deprive him of consideration by the FY 2024 Reserve E8/E9 Advancement Board. See enclosure (1).

o. By memorandum dated 24 October 2023, the Director, Military Community Management (BUPERS-3), provided an AO for the Board’s consideration. This AO informed the Board that Petitioner’s rating was changed to CMDCS upon his selection by the FY 2024 CMDCS Screen Board in accordance with reference (b), and that he was therefore ineligible for consideration for advancement to MCPO in his source rating (MACM). This AO also informed the Board of the inventory management process implemented by BUPERS-352, as discussed in paragraph 3j above, but opined that the assignment of the TRP MAS code would not have precluded Petitioner from being eligible for advancement to CMDCM. Based upon the relevant facts and accompanying policy documents, BUPERS-3 concluded that Petitioner should have been eligible for advancement to CMDCM. See enclosure (7).

p. On 28 October 2023, Petitioner’s lateral conversion to CMDCS pursuant to his selection by the FY 2024 CMDCS Screen Board became official upon his completion of the CMDCS course. See enclosure (8)

q. By memorandum dated 21 November 2023, the Enlisted Career Progression Branch Head (PERS-803) recommended disapproval of Petitioner’s request for relief because his removal for consideration by the FY 2024 Reserve E8/E9 Advancement Board was proper since he became ineligible for advancement consideration in his source rating upon selection for CMDCS. This AO informed the Board that the TRP MAS code assigned did impact Petitioner’s eligibility as he contends because he was no longer a rated MA Senior Chief (MACS) eligible for MACM once the TRP MAS code was applied. He was, however, immediately eligible for promotion to CMDCM. See enclosure (8).

r. By memorandum dated 15 December 2023, Petitioner provided a statement in response to the AOs referenced in paragraphs 3p and 3q above. He asserted that the AO recommendations

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serve as further evidence of errors or injustice, asserting that the actions taken by BUPERS and NPC were not in compliance with their own regulations. He continued to insist that it was improper for BUPERS to assign him a TRP MAS and that it was BUPERS internal business practice which denied him the opportunity for consideration by the FY 2024 Reserve E8/E9 Advancement Board. Specifically, citing to enclosure (9), he asserted that “[n]ormally you would keep your source rate until you complete CMC/COB school and get selected for a billet” which historically allowed advancement eligible CMDCS selectees by previous annual boards to be considered in their source rating, and he provided a previous example of this occurrence. See enclosure (13).

CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Board finds the existence of an injustice warranting corrective action.

The Board noted inconsistencies within and between the AOs provided by BUPERS-3 and PERS-803, and found neither to be particularly helpful in explaining the Petitioner’s situation or the reason that he was denied consideration by the FY 2024 Reserve E8/E9 Advancement Board. It did note, however, that the quoted references were silent on this subject and that both AOs and the SSB request denial from NPC acknowledged that the implementation of the TRP MAS code and temporary rate change was a “new change in the process” to “better track personnel selected for CSEL until completion of CMC/COB school.”

Petitioner provided examples of similar situations in the recent past which were resolved favorably for the CSEL selectee. Specifically, he described the situation of an LSCS who “[d]ue to reasons outside [his] control, the rating change from LSCS to CMDCS had not been made effective in time for his record to be considered by the appropriate board.” This illustrated for the Board that NPC Career Progression and the CSEL Program were aware of areas requiring clarification. However, rather than address this potential loss of an advancement opportunity or explain the new business practice with Petitioner, BUPERS invalidated his eligibility for consideration by the FY 2024 RC E8/E9 (in rate) Advancement Board without notice on the Friday preceding he Monday convening date of the Board, thus denying Petitioner the opportunity to be considered for advancement to MCPO.

The Board determined that it was reasonable for Petitioner to believe he would still be considered for advancement to MACM despite his selection by the FY24 CMDSC Screen Board. It also found it to be an injustice that Petitioner was negatively impacted by a decision made by BUPERS-352 to assist in tracking inventory of those selected for CSEL because “it’s made a mess for SELRES side of the house.” By its own explanation, BUPERS-352 stated that normally one would keep his source rate until he completed CMC/COB school and was selected for a billet.” An internal tracking mechanism should not result in the loss of an opportunity for advancement consideration, especially considering the fact that complications had previously occurred for other CSEL selects and there was an easy means to notify Petitioner of this possibility. Ultimately, the Board determined that the unintended consequences of BUPERS’s decision to change its business processes should not be shouldered by Petitioner, and therefore

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concluded that his request for a FY 2024 Reserve E-9 Enlisted SSB should be granted in the interests of justice.

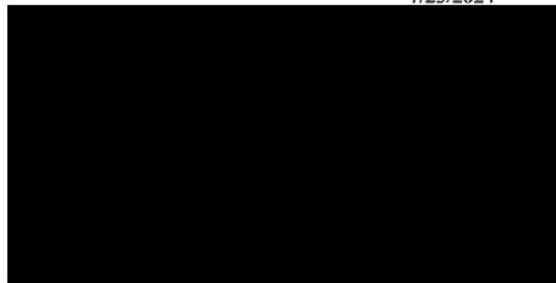
RECOMMENDATION

In view of the above, the Board recommends that Petitioner's request for a FY 2024 RC E-9 Enlisted SSB in his source rating of MACS be approved.

4. 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 titled matter.

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

7/23/2024



ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

Board Recommendation Approved (Grant Relief – I concur with the Board's conclusion and therefore direct the relief recommended by the Board above.)

Board Recommendation Disapproved (Deny Relief – I do not concur with the Board's conclusion. Specifically, while I agree that both AOs were less than enlightening and only tended to add confusion, the denial of Petitioner's consideration by the FY 2024 Reserve E8/E9 (in rate) Advancement Board was proper upon his selection for CMDSC. Per reference (b), SCPOs selected by the CMDCS lateral conversion board will have their rating changed to CMDCS "upon selection." Accordingly, the new process implemented by BUPERS was not the reason that Petitioner was denied consideration by the FY 2024 Reserve E8/E9 Advancement Board. Petitioner was denied consideration because he no longer held a rating eligible for consideration by the Advancement Board. The new business process described in the AOs and blamed by Petitioner for this outcome was a "red herring"; it was not the reason for this outcome. Accordingly, consistent with the recommendation of the PERS-803 AO, I direct that no corrective action be taken on Petitioner's naval record.)

