



DEPARTMENT OF THE NAVY
COMMANDER NAVY RESERVE FORCES COMMAND
1915 FORRESTAL DRIVE
NORFOLK, VIRGINIA 23551-4615

IN REPLY REFER TO:
5800
Ser N00J/149
12 Dec 13

From: Commander, Navy Reserve Forces Command
To: ABH2 Michael Little, USN

Subj: COMPLAINT OF WRONGS UNDER ARTICLE 1150, U.S. NAVY
REGULATIONS BY ABH2 MICHAEL LITTLE, USN

Ref: (a) Article 1150, U.S. Navy Regulations
(b) JAGMAN, Chapter III
(c) RESPERSMAN 1570-010

Encl: (1) ABH2 Little, USN, ltr of 12 Jul 13 (w/encl and ends)
(2) COMNAVRESFORCOM ltr 5800 Ser N00J/150 of 12 Dec 13

1. Per references (a) and (b), enclosure (1) has been investigated.

2. In enclosure (1), you alleged that a NAVPERS 1070/613 was improperly and unfairly entered into your record after an administrative separation board specifically found that the preponderance of the evidence did not support a finding that you should be separated for unsatisfactory performance.

3. I have conducted an inquiry and concluded as follows:

- (a) I have determined that your complaint is cognizable and has merit as action to place you on a probationary period per RESPERSMAN 1570-010 should have happened prior to and in lieu of administrative separation processing. Accordingly, it was improper for the respondent to issue the NAVPERS 1070/613 for unsatisfactory participation contrary to the board's findings.
- (b) The complaint warrants the relief requested and per enclosure (2), I have directed that the requested relief be granted.

4. This action was not completed within 90 days of receipt as required by paragraph 0307(g) of reference (b). The time frame

Subj: COMPLAINT OF WRONGS UNDER ARTICLE 1150, U.S. NAVY
REGULATIONS BY ABH2 MICHAEL LITTLE, USN

was exceeded by 15 days due to internal misrouting of the complaint.

5. As required by section 0308(b) of reference (b), I have forwarded a report of your complaint and the proceedings held thereon to the Secretary of the Navy, who will act as the final review authority in your case.



B. P. CUTCHEN

Copy to:
CAPT Anderson
NAVREG MW RCC Great Lakes
NAVOPSPCEN Buffalo



DEPARTMENT OF THE NAVY

COMMANDER, NAVY REGION MIDWEST
RESERVE COMPONENT COMMAND
520 DEWEY AVE
GREAT LAKES, ILLINOIS 60088-2913

1611
Ser N00/254
20 Aug 2013

THIRD ENDORSEMENT on ABH2 Michael J. Little, USN ltr of 12 Jul 13

From: Commander, Navy Region Midwest, Reserve Component Command
To: Commander, Navy Reserve Forces Command

Subj: COMPLAINT OF WRONGS UNDER U.S. NAVY REGULATIONS ARTICLE 1150

1. I have reviewed Petty Officer's Little's complaint of wrong under U.S. Navy Regulation Article 1150. Based upon a review of the facts and regulations in this matter, I recommend FORM NAVPERS 1070/613 dtd 03/03/2013 be removed from the member's official service record and rescission of the resulting 6-month probationary period.

2. Forwarded.


G. N. T. WHITBRED, IV

Copy to:
ABH2 Little
File



DEPARTMENT OF THE NAVY
NAVY OPERATIONAL SUPPORT CENTER
ST. LOUIS
10810 LAMBERT INTERNATIONAL BLVD.
BRIDGETON, MISSOURI 63044-2314

5800
Ser N00/642
29 Jul 13

SECOND ENDORSEMENT on ABH2 Michael J. Little, USN ltr of 12 Jul 13

From: Commanding Officer, Navy Operational Support Center, St. Louis
To: Commander, Navy Reserve Forces Command
Via: Commander, Navy Region Midwest Reserve Component Command

Subj: COMPLAINT OF WRONGS UNDER U.S. NAVY REGULATIONS ARTICLE 1150

1. I have reviewed Petty Officer Little's complaint of wrong under U.S. Navy Regulations Article 1150.

2. Forwarded.

E. B. Anderson
E. B. ANDERSON

Copy to:
ABH2 Little
File



DEPARTMENT OF THE NAVY
NAVY OPERATIONAL SUPPORT CENTER
3 PORTER AVENUE
BUFFALO, NY 14201-1096

5800
Ser N1/313
12 Jul 13

FIRST ENDORSEMENT on ABH2 Michael J. Little, USN ltr of
12 Jul 13

From: Commanding Officer, Navy Operational Support Center,
Buffalo
To: Commander, Navy Reserve Forces Command
Via: (1) Commanding Officer, Navy Operational Support Center,
Saint Louis
(2) Commander, Navy Region Mid-West Reserve Component
Command

Subj: COMPLIANT OF WRONGS UNDER U.S. NAVY REGULATIONS
ARTICLE 1150

1. I have reviewed Petty Officer Little's compliant of wrong
under U.S. Navy Regulations Article 1150.

2. Forwarded.

A handwritten signature in black ink, appearing to read "J. M. Morton, III", is located below the text of the second point.

J. M. MORTON, III

Copy to:
ABH2 Little
File

12 Jul 13

From: ABH2 Michael J. Little, USN
To: Commander, Navy Reserve Forces Command
Via: (1) Commanding Officer, Navy Operational Support Center, Buffalo
(2) Commanding Officer, Navy Operational Support Center, St. Louis
(3) Commander, Reserve Component Command, Mid-West

Subj: COMPLAINT OF WRONGS UNDER ARTICLE 1150

Ref: (a) Art. 1150, U.S. Navy Regulations
(b) JAGMAN, Chapter III
(c) MILPERSMAN 1910-158
(d) Record of Administrative Board hearing on 3 Mar 13 ICO ABH2 Michael J. Little, USN at NOSC, St. Louis, including the audio recording of the hearing, all exhibits accepted by the Board for consideration, and the Board Findings/Recommendation Sheet
(e) MILPERSMAN 1910-704
(f) MILPERSMAN 1910-702
(g) RESPERSMAN 1570-010

Encl: (1) Form NAVPERS 1070/613 dtd 03/03/2013
(2) J. A. Golden, CDR, JAGC, USN email dtd 22 Jun 13 and E. B. Anderson, CAPT, USN email dtd 25 Jun 13
(3) CO, NOSC, St. Louis memo dtd 28 Feb 13
(4) Board Findings/Recommendation Sheet
(5) J. A. Golden, CDR, JAGC, USN email dtd 4 Jul 13

1. This complaint of wrongs under reference (a) is submitted in compliance with reference (b).
2. Complainant Information: ABH2 Michael J. Little, USN, XXX-XX-5447
 - a. Current command: Navy Operational Support Center, Buffalo
 - b. Command at time of alleged wrong: Navy Operational Support Center, St. Louis
 - c. EAOS/EAS/PCS/Separation/Retirement Date: 20 Aug 2015
 - d. Permanent home address and e-mail address: 5278 Southwestern Blvd., Unit 508, Hamburg, New York 14075; 83littlemj@gmail.com.
3. Respondent Information:
 - a. Rank and name: Captain Eric B. Anderson, USN
 - b. Organization: Commanding Officer, Navy Operational Support Center, St. Louis
4. Complaint:

Enclosure (1)

a. Type of Wrong: Improper and unfair imposition of probationary period and documentation of alleged unsatisfactory participation with a Page 13.

(1) Date wrong discovered: 4 or 5 May 2013 (when I received and signed enclosure (1)).

(2) Date written request for redress was submitted: Although not required for an Article 1150 complaint, my counsel requested redress from Respondent via email on 22 June 2013.

(3) Date answer to request for redress was received: 25 June 2013. Copies of my counsel's email requesting redress and Respondent's answer are attached as Enclosure (2).

(4) Number of days between wrong and submission of complaint: 67 or 70 days.

(5) Specific, detailed explanation of wrong committed:

On 28 February 2013, Captain Eric B. Anderson, USN ("Respondent") appointed an Administrative Board for the purpose of processing me for separation under reference (c) by reason of alleged unsatisfactory participation in the Navy Reserves. See enclosure (3). The board convened on 3 March 2013, received and considered sworn witness testimony and other evidence, and heard the arguments of the Government Recorder and my counsel. The Board found by a vote of 3-0 that a preponderance of the evidence did not support the alleged unsatisfactory participation in the Navy Reserves. See enclosure (4).

The situation that led to my processing for separation began when I was placed in a temporary not physically qualified ("TNPQ") status for post traumatic stress disorder ("PTSD"). My diagnosed PTSD relates to back-to-back mobilizations in Iraq and Afghanistan, the suicides of numerous shipmates from my mobilizations, and the death of my cousin shortly before I was placed in TNPQ status. When I was placed in TNPQ status, I was in shock from learning of the recent suicide of one of my former shipmates and I mistakenly believed that I did not have to report for drills while in TNPQ status. Consequently, I missed some drills (a/k/a IDTs).

At the Board hearing, the Government Recorder argued that I had nine unexcused/unsatisfactory IDTs during a progressive 12 month period. My understanding is that the Board expressly found this was not the case because one or more of the nine allegedly unexcused/unsatisfactory IDTs were negated and "not accurate." See "[s]pecific evidence relied upon to support findings for Basis #1" of enclosure (4); see also the Senior Board Member's explanation of the findings on the recorded in reference (d).¹

Apparently disregarding the factual findings of the Board, Respondent placed me on a 6-month probationary period for the same alleged unsatisfactory participation considered by the Board. Respondent also caused enclosure (1) to be placed in my official service record. Enclosure (1) states, in part:

¹ On 4 Jul 2013, my counsel requested a copy of reference (d) from Respondent and advised Respondent that reference (d) should be preserved. See enclosure (5). To date, Respondent has not provided me with a copy of reference (d) as requested in enclosure (5).

I have been placed in a 6-month probationary period by reason of unsatisfactory participation. . . . I also understand that I am not recommended for advancement during this probationary period. . . .

Such actions have and will continue to irreparably harm my Navy career, including my ability to be promoted and cross-rate to the Legalman Rating, both of which I desire to do and am working towards.

Respondent's actions were improper, unfair, and violated my due process rights. Respondent is not permitted to disregard the findings of the Board and act contrary to such findings. Per reference (e), Respondent was the separation authority in my case. Subsection 2.a. of reference (f) provides:

[Separation authorities] **may not approve findings** and characterization recommendations **less favorable to the [member] than those rendered by an administrative board.**

(Emphasis added). By placing me on probation and causing enclosure (1) to be placed in my official service record, Respondent approved a finding less favorable to me than rendered by the administrative board.

Additionally, based on reference (d), Respondent's determination that I unsatisfactorily participated in the Navy Reserves was arbitrary, capricious, and against the manifest weight of the credible evidence presented to the Board.

Lastly, I respectfully suggest that Respondent lacked the authority to place me on probation and cause enclosure (1) to be placed in my service record. Respondent relied on reference (g) as the authority to take such action. See enclosure (1). Reference (g) provides:

(1) For members with nine or more unexcused/unsatisfactory IDTs during a progressive 12 month period, the **Unit CO has two options:**

(a) Transfer member to the Administrative Processing Unit (APU), assign applicable MAS code and **process for administrative separation** per reference (e) for enlisted members or transfer to the ASP/IRR for officers per reference (a).

(b) Determine if the member has potential for future mobilization. If so, **place member on six months probation** per reference (a) and assign applicable MAS code.

(Emphasis added). Although reference (g) does not expressly state that these two options are mutually exclusive. The options of processing me for administrative separation and

placing me on probation, especially in this case, are so inconsistent as to be impliedly mutually exclusive.

For all the foregoing reasons, I respectfully request the following relief.

(6) Relief requested: Immediate removal of enclosure (1) from my official service record and rescission or revocation of the 6-month probationary period referenced in enclosure (1) effective retroactively to the beginning of such period.

5. I CERTIFY THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, AND THIS COMPLAINT IS SUBMITTED PER THE GUIDELINES AND PROCEDURAL REQUIREMENTS IN CHAPTER III, MANUAL OF THE JUDGE ADVOCATE GENERAL.

SIGNATURE OF COMPLAINANT:  Date: 22 JUNE 2013

SIGNATURE OF WITNESS:  Date: 13 Jul 13

Very respectfully,

M. J. LITTLE



DEPARTMENT OF THE NAVY
COMMANDER NAVY RESERVE FORCES COMMAND
1915 FORRESTAL DRIVE
NORFOLK, VIRGINIA 23551-4615

IN REPLY REFER TO:
5800
Ser N00J/150
12 Dec 13

From: Commander, Navy Reserve Forces Command
To: Secretary of the Navy
Via: (1) Commander, Navy Personnel Command (PERS-313)
(2) Office of the Judge Advocate General (Code 13)

Subj: ARTICLE 1150 COMPLAINT ICO ABH2 MICHAEL LITTLE, USN (Ret)

Ref: (a) Article 138, UCMJ
(b) JAGMAN, Chapter III

Encl: (1) COMNAVRESFORCOM ltr 5800 Ser N00J/149 of 12 Dec
(2) Signed GCMCA Checklist

1. Per references (a) and (b), enclosures (1) and (2) are forwarded.

2. Per enclosure (1) I have determined that the complaint has merit and request that Commander, Navy Personnel Command take action to implement the appropriate redress by removal of the NAVPERS 1070/613 dated 3 March 2013 from ABH2 Little's service record.

3. My point of contact on this matter is CDR Timothy Jennings, JAGC, USN. He may be reached at 757-322-5613 or DSN 262-5613.

A handwritten signature in black ink, appearing to be "B. P. CUTCHEN", is written over the typed name.

B. P. CUTCHEN

Copy to:
ABH2 Little (w/o encl)

Enclosure (2)

ADMINISTRATIVE REMARKS
NAV PERS 1070/613



SHIP OR STATION: NR ADMIN PERS 1386

SUBJECT: PROBATIONARY PERIOD

Permanent: Yes

Authority: RESPERSMAN 1570-010

03/03/2013

I have been placed in a 6-month probationary period by reason of unsatisfactory participation. I understand that during this 6-month period, I will be immediately removed from a drill assignment should I accrue one unexcused absence or fail to satisfactorily participate in any manner. I also understand that if enrolled in an Enlisted Selected Reserve Drilling Incentive program, or the MGIB-SK, my unsatisfactory participation disqualifies me for future payments and may result in recoupment of payments I have received but have not earned. I also understand that I am not recommended for advancement during this probationary period. If I fail to complete Initial Active Duty Training (IADT) in the prescribed time, I may be processed for separation.

M. D. CLARK, PSC(AW), USN
RESPAY/PERS DH

03/03/2013

MICHAEL JOSEPH LITTLE

Witnessed:

J. F. EWELL, YNC(AW), USN
LEGAL LCPO

NAME (Last, First Middle)	SOCIAL SECURITY NUMBER	BRANCH AND CLASS
LITTLE, MICHAEL JOSEPH	315-04-5447	USNR

Official NSIPS/ESR form printed this date 06/17/2013.

From: Golden, Jason A CDR
Sent: Thu 7/4/2013 4:12 PM
To: Anderson, Eric B CAPT NOSC St. Louis CO
Subject: Administrative action/complaint ICO ABH2 Michael J. Little, USN [REQUEST FOR & PRESERVATION OF EVIDENCE]

CAPT Anderson,

Would you please send me a complete copy of the record of the administrative board hearing in the case of ABH2 Michael J. Little, USN held on 3 March 2013, including the audio recording of the proceedings, all exhibits submitted to the board for consideration, and any other documents that are part of the record ("Record of Board")? If NOSC, St. Louis no longer has the Record of Board, please let me know where the Record of Board was sent?

Also, please confirm that the Page 13 dated 3 March 2013 placing ABH2 on 6 months of probation was first provided to ABH2 Little during the 4-5 May 2013 drill weekend, and provide me with a signed copy of the Page 13.

The foregoing information and records are requested in contemplation of an Article 1150 complaint, an IG complaint, other administrative remedies and/or civil litigation. Regardless of whether you provide me with the requested records, **you should take all necessary and immediate steps to assure that the requested records are preserved, maintained, and not spoliated.**

Thank you for your anticipated cooperation.
V/r,

Jason A. Golden
CAPT, JAGC, USN
NR DSO Southeast
Jason.a.golden@navy.mil

c/o Montgomery, Rennie & Jonson
36 East 7th Street, Suite 2100
Cincinnati, Ohio 45202
jgolden@mrjlaw.com
(513) 241-4722
(513) 277-9451 (mobile)
(513) 768-9211 (fax)

Counsel for ABH2 Michael J. Little, USN

From: Anderson, Eric B CAPT NOSC St. Louis CO
Sent: Tue 6/25/2013 12:28 PM
To: Golden, Jason A CDR
Cc: Morris, Adam J. LT Executive Officer (XO), NOSC St. Louis; Ewell, Joshua F YNC NOSC St. Louis, Admin; Love, Ceroma A CMDCM NOSC St. Louis, Command Master Chief
Subject: RE: 6-month probationary period and Page 13 given to ABH2 Michael J. Little, USN

CDR,
I have reviewed the case regarding Petty Officer Little, and I do not intend to take any action in this matter.
r/

CAPT Eric B Anderson
Commanding Officer
NOSC St Louis
Office: 314-524-9500
Cell: 901-626-8347
Fax: 314-524-9565

-----Original Message-----

From: Golden, Jason A CDR
Sent: Saturday, June 22, 2013 15:46
To: Anderson, Eric B CAPT NOSC St. Louis CO
Subject: 6-month probationary period and Page 13 given to ABH2 Michael J. Little, USN

CAPT Anderson,

I represent ABH2 Michael J. Little, USN regarding the above referenced matter. NOSC, St. Louis processed ABH2 Little for administrative separation by reason of alleged unsatisfactory participation in the Navy Reserves in March 2013. The Administrative Board found by a vote of 3-0 that the preponderance of the evidence did not support the basis for separation. I understand that subsequently, in May 2013, NOSC, St. Louis gave ABH2 Little a Page 13 advising him that he was placed in a 6-month probationary period for unsatisfactory participation. It appears the Page 13 is for the same alleged unsatisfactory participation considered by the Board. On behalf of ABH2 Little, I respectfully request that you remove the Page 13 from his service record and end his probationary period.

I understand ABH2 has transferred to NOSC, Buffalo, and that he cannot sit for his next advancement exam because of the Page 13. Also, ABH2 is working on cross-rating to become a Legalman. The Page 13 likely will prevent him from being able to cross-rate to the Legalman Rating, even after his probationary period expires. These are some of the practical reasons for our request.

I do not know if you are aware of all the facts surrounding ABH2 Little's situation: his outstanding service record; his back-to-back mobilizations in Iraq and Afghanistan; his anguish over losing numerous shipmates from his mobilizations to suicide; his advocacy work before Congress relating to the military's suicide prevention programs/policies; the strong character testimony presented at this Board by his former Commanding Officers; his diagnosed PTSD; and his recent release from TNPQ by NOSC, Buffalo. However, I hope you will

consider them in making your determination regarding our request. Do you have some time to talk with me next week about this situation?

Thank you for your consideration.

V/r,

Jason A. Golden

CDR, JAGC, USN

NR DSO Southeast

Jason.a.golden@navy.mil <mailto:Jason.a.golden@navy.mil>

c/o Montgomery, Rennie & Jonson

36 East 7th Street, Suite 2100

Cincinnati, Ohio 45202

jgolden@mrjlaw.com <mailto:jgolden@mrjlaw.com>

(513) 241-4722

(513) 277-9451 (mobile)

(513) 768-9211 (fax)

Counsel for ABH2 Michael J. Little, USN

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DEPARTMENT OF THE NAVY
NAVY OPERATIONAL SUPPORT CENTER
ST. LOUIS
10810 LAMBERT INTERNATIONAL BLVD.
BRIDGETON, MISSOURI 63044-2314

1910
Ser N1/222
28 Feb 13

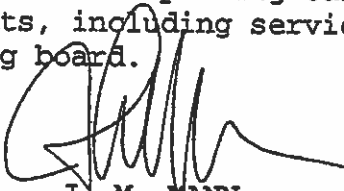
From: Commanding Officer, Navy Operational Support Center
St. Louis
To: LCDR Daniel B. Truesdell, USN
Subj: APPOINTMENT OF AN ADMINISTRATIVE BOARD FOR ABH2 MICHAEL
J. LITTLE, USN, WHO IS BEING PROCESSED FOR
ADMINISTRATIVE SEPARATION BY REASON OF UNSATISFACTORY
PARTICIPATION IN THE NAVY RESERVES
Ref: (a) MILPERSMAN 1910-502
(b) MILPERSMAN 1910-516
(c) MILPERSMAN 1910-158

1. Per reference (a), you are assigned as senior member of an administrative board to be convened at 0800, 3 March 2013, at Navy Operational Support Center, St. Louis, or as soon as practicable thereafter. Other individuals assigned to board are:

LT Nicholas, Timothy M. - Member
LT Morris, Adam J. - Member
YNC(AW) Ewell, Joshua F. - Recorder
CDR Golden, Jason A. - Counsel for Respondent

2. General procedural instructions are contained in reference (b). You and other board members should become familiar with reference (b) and (c) prior to convening board.

3. You are admonished not to discuss pending case with anyone and not to review any documents, including service record of respondent, prior to convening board.


J. M. MANN
Acting

Copy to:
Respondent/Counsel
Board members
Recorder
Legal advisor

BOARD FINDINGS/RECOMMENDATIONS SHEET

Findings:

By a vote of		The preponderance of evidence		Basis
		Supports	Does Not Support	
3	0		X	(1)
				(2)

Specific evidence relied upon to support findings for Basis #1:
(1) RESPONDENT Exhibit E shows order date 18 NOV negates DEC 2011 UA
(2) RECORDER Exhibit 5 shows vtu date 6 JUL 12 so negates JUL 2012 UA
(3) RESPONDENT Exhibit A shows 1 year record of exemplary service
(4) RECORDER Exhibit 6 shows JUL Dr. U's as UA - NOT ACCURATE
(5)

Recommendations (separation or retention):

By a vote of	Recommendation for (retention, separation, or suspended separation for () months)	
	3	0
	RETENTION	

Recommendation (only one (1) characterization if recommending separation):

By a vote of	The board recommends (HON/GEN/OTH)

Recommendation (regarding transfer to Individual Ready Reserve (IRR) (MILPERSMAN 1910-518 refers):

By a vote of	The board recommends/does not recommend transfer to the IRR

Transfer to Fleet Reserve (if applicable):

By a vote of	The board recommends transfer to Fleet Reserve/Retired Reserve/Retired List (as applicable) in:	
	Current Pay Grade	Reduced Pay Grade (Specify Pay Grade)

We certify that records of activities from prior enlistments, including courts-martial convictions, unauthorized absences, and commission of other offenses, were not considered on the issue of characterization.

Signatures:



Senior Member of Board


Member


Member

Dissenting member comments and signature:

I do/~~do~~ not intend to submit a Letter of Deficiency

 J. A. GOLDEN, CDR, JAGC, USN
(Signature, Counsel for Respondent)

A letter of deficiency must be received by the convening authority no later than the end of the fifth working day (or more if approved by the convening authority in writing) from the end of the board, or 10 days prior to member's expiration of active obligated service (EAOS), whichever is sooner. If no letter of deficiency is received by the time designated, such will be deemed a waiver, and the record will be forwarded without it. Convening authorities are not required to allow the counsel for the respondent (or member) to review the record of proceedings, summarized testimony of witnesses, or exhibits before sending the case to the separation authority. Counsel for the respondent will receive a copy of the record of proceedings when it is forwarded.

NOTE: ALL BOARD MEMBERS AND COUNSEL FOR THE RESPONDENT MUST SIGN THIS FORM PRIOR TO THE CONCLUSION OF THE BOARD.