



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

JRE  
Docket No: 7640-98  
30 April 1999

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

Subj: FORMER [REDACTED]  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 w/attachments

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was assigned a reenlistment code of RE-3, vice the code of RE-4 he actually received.
2. The Board, consisting of Ms. Schnittman and Messrs. Bartlett and Schultz, reviewed Petitioner's allegations of error and injustice on 15 April 1999 and, pursuant to its regulations, determined that the partial 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. Enclosure (1) was filed in a timely manner.
  - c. Petitioner underwent a pre-enlistment physical examination on 30 June 1997 and was found qualified for enlistment. He did not disclose a history of knee pain or treatment for a knee condition. He sought medical care from a private physician during September 1997 for a complaint of increasing pain in the left knee. The results of an MRI scan of the knee were unremarkable, and there were no significant changes compared to the scan taken on 6 October 1992, presumably for left knee pain. Available records do not address the etiology of the increasing pain. He enlisted in the Navy on 23 October 1997, and began to complain of knee pain shortly thereafter. He was discharged on 26 November 1997, having completed 35 days of service, due to his failure to meet procurement medical fitness standards because

of retropatellar pain.

**CONCLUSION:**

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice with regard to Petitioner's discharge for failing to meet procurement physical standards. The Board concluded that the discharge was proper in view of the increased knee pain he experience prior to entering active duty, and his inability to perform his duties secondary to that pain. The evidence which indicates that his knee is no longer symptomatic, while relevant to the issue of his current fitness for military service, provides no basis for setting aside his discharge. With regard to his reenlistment code, the Board noted that a service member being discharged for erroneous enlistment may be assigned a reenlistment code of RE-3E or RE-4, at the discretion of the commanding officer. As there in no evidence that Petitioner committed any acts of misconduct during his enlistment, and notwithstanding his failure to fully disclose his history of knee pain, the Board concluded that a code of RE-3E would be more appropriate than a code of RE-4.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

**RECOMMENDATION:**

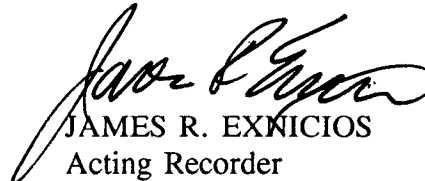
a. That Petitioner's naval record be corrected to show that on 26 November 1997, he was assigned a reenlistment code of RE-3E.

b. That so much of Petitioner's request for correction of his record as exceeds the foregoing be denied.


c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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.

ROBERT D. ZSALMAN  
Recorder

  
JAMES R. EXNICIOS  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director