



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

TRG
Docket No: 746-01
2 March 2001

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting that his separation program designator (SPD) code be changed to establish eligibility for the Montgomery G. I. Bill (MGIB).

2. The Board, consisting of Mr. Beckett, Mr. McPartlin and Ms. Newman reviewed Petitioner's allegations of error and injustice on 21 February 2001 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. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 12 February 1998 at age 34. Subsequently, he elected to participate in the MGIB. On 14 January 1999 the commanding officer directed discharge for the convenience of the government due to parenthood. The commanding officer stated, in part, as follows:

..."single service member(s) (or) members of dual military couples, that have custodial responsibilities for family members or other dependents and are unable to perform their duties" are eligible to be separated; while (Petitioner) is not a single parent or part of a dual military couple (the) diagnosis of (Petitioner's)

wife as suffering from "Axis I schizophrenia and Axis II mental retardation and dependent personality disorder" and (the doctor's) statement that (Petitioner) is undeployable ... I believe that he is, in essence, a "single service member" because his wife is unable (to) safely care for their child. Finally, (Petitioner) continues to be unable to perform his duties and has been repetitively absent from this command ... With these facts in mind, I believe the best course of action in both the interest of the member and the Navy is the Honorable Discharge of (Petitioner) as soon as possible.

d. Petitioner was honorably discharged on 16 January 1999 due to "parenthood or custody of minor children" He was assigned an SPD code of KDG, which indicated that his separation was voluntary. At the time of discharge, he had completed 11 months and 3 days of active service.

e. The Board is aware that Petitioner is not eligible for the MGIB because he did not complete 30 months of active duty and there is no provision in the law which would allow Petitioner's MGIB payments to be refunded to him. However, he would be eligible for payments under the MGIB, based on his 11 months of active service, if his separation was involuntary. As previously noted, the SPD of KDG indicates that his separation was voluntary. Therefore, he is being denied all MGIB benefits. An SPD of JDG would indicate that his separation was involuntary and he would be would be entitled to 11 months of MGIB benefits.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that although the SPD currently assigned indicates his discharge was voluntary, the comments in the commanding officer's letter clearly show that he was undeployable and discharge processing was required. Given the circumstances the Board concludes that Petitioner's SPD should be changed to JDG so that he can obtain 11 months of MGIB benefits.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 14 January 1999 he was assigned a Separation Program Designator (SPD) of JDG vice the SPD of KDG now of record.

b. That this Report of Proceedings be filed in Petitioner's naval record.

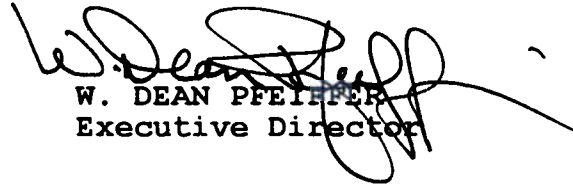
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
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