



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

TRG
Docket No: 5838-00
26 December 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) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Naval Reserve filed an application with this Board requesting that his record be corrected to show a better reenlistment code than the RE-4 reenlistment code now of record.

2. The Board, consisting of Mr. Pfeiffer, Mr. Whitener and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 18 December 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. Although it appears that Petitioner's application was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Naval Reserve on 15 October 1993 at age 18 and reported for three years of active duty on 10 January 1994. The record shows that he successfully completed recruit training and, on 18 April 1994, he reported to his first duty station.

d. On 9 May 1994 he was referred for a psychiatric evaluation after he expressed suicidal ideation. The precipitating factors in the referral were his feeling that the recruiter lied to him about the possibility of schools and his

desire for discharge. The psychologist diagnosed him as having an adjustment disorder with depressed mood, and believed he was an unacceptable medical and administrative burden with little likelihood of making significant contributions to the Navy. Accordingly, he recommended an administrative separation.

e. On 23 May 1994 Petitioner was notified of separation processing due to unsatisfactory performance as evidenced by his failure to adapt to the naval environment. Subsequently, he elected to waive his procedural rights. On 26 May 1994 the separation authority directed an entry level separation by reason of entry level performance and conduct, and he was so separated on 3 June 1994. At that time, he was not recommended for reenlistment and was assigned an RE-4 reenlistment code.

f. Petitioner initial request for a change in his reenlistment code was denied in 1999. He contended at that time that he only wanted to be separated because he was harassed and assaulted at his first duty station, and he submitted evidence showing that he had made a good post service adjustment. In the denial letter, the Board noted that there was no evidence that he had been harassed or assaulted and he had made no mention of such a scenario when he was evaluated by the psychologist. The Board concluded that he was properly separated from the Navy and the RE-4 reenlistment code was properly assigned.

g. Petitioner's case is being reconsidered based on the brief of counsel, which includes evidence that he was assaulted while in the Navy, excellent character references, and a psychiatric evaluation. The psychiatrist concludes that he no longer has an adjustment disorder and believes there are no psychiatric findings that would prevent good performance and conduct in a military environment. Documentation has been submitted which shows that Petitioner is employed by a government contractor, is performing security guard duties for the U. S. Government and has been granted a security clearance. The brief of counsel, character references and psychiatric evaluation are attached to enclosure (1).

h. As indicated, Petitioner has submitted excellent character references. A Marine Corps master sergeant states that he has known Petitioner since December 1997 and believes that he is task-oriented, extremely conscientious, and has repeatedly demonstrated a capacity for handling positions of increased responsibility. The master sergeant concludes that he is aware of the circumstances of Petitioner separation but believes, as a former recruiter, that he could perform well in the military. In another reference, an Army sergeant first class states that Petitioner takes pride in his performance, is extremely well qualified as a security guard, and performs his duties in a

superior manner. He notes that Petitioner has become a supervisor in charge of six security guards at a highly secure and prestigious facility, and that this position required an intense security background check that he easily obtained. The sergeant first class believes that Petitioner should have another opportunity to serve in the military. Finally a deputy sheriff states that he has been Petitioner's supervisor for several years in his off duty employment with a security firm. The deputy sheriff believes that Petitioner is reliable, trustworthy, has demonstrated outstanding judgment and should be given another change to succeed.

i. The Board is aware that only an RE-4 reenlistment code is authorized when an individual is separated with a narrative reason of "Entry Level Performance and Conduct". The regulations allow for a narrative reason for separation of "Best Interest of the Service" or "Secretarial Authority" when separation is warranted but no other narrative reason for separation fits the circumstances of the case. When an individual is separated for this reason, the regulations allow for the assignment of the full range of reenlistment codes.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board believes that Petitioner was properly separated from the Navy in 1994 and the record supports the assignment of the RE-4 reenlistment code. However, the Board notes the current psychiatric evaluation and the excellent character references which attest to his maturity and professionalism. Given the circumstances, the Board concludes that no useful purpose is now served by the RE-4 reenlistment code and corrective action is warranted. Therefore, the narrative reason for separation and reenlistment code should be changed to Secretarial Authority and RE-1, vice the narrative reason for separation and reenlistment code now of record.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reason for the change in the reason for separation and reenlistment code.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by issuing a new DD Form 214 showing that on 3 June 1994 he was separated by reason of Secretarial Authority with an RE-1 Reenlistment Code vice the narrative reason for separation and reenlistment code now of record.

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

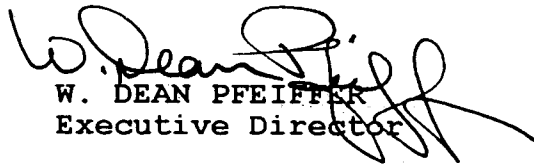
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



ALAN E. GOLDSMITH
Acting Recorder

ROBERT D. ZSALMAN
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