



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

TRG
Docket No: 7425-00
28 November 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 Navy filed enclosure (1) with this Board requesting that his record be corrected by changing the RE-4 reenlistment code assigned on 25 September 2000.

2. The Board, consisting of Mr. Chapman, Mr. McPartlin and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 20 November 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. Petitioner's application was filed in a timely manner.

c. Petitioner enlisted in the Navy for four years on 24 July 2000 at age 18. On 2 August 2000, a Navy drug laboratory reported the result of a urinalysis that showed he had used marijuana. Based on the positive urinalysis he was processed for an administrative separation.

d. After being advised of the pending separation action, Petitioner requested retention and expressed remorse for his actions. In addition, his recruit division commander recommended his retention in the Navy. On 8 September 2000, the Commanding Officer (CO), Recruit Training Command (RTC) recommended that

Petitioner be considered for a waiver for his drug use and that he be retained. The CO stated, in part, as follows:

(Petitioner) takes responsibility for his actions and expresses sincere remorse while promising to uphold the Navy's "Zero Tolerance" policy. Additionally, (he) relates that he sought out the Navy to make something of his life and he would not again jeopardize the opportunities available when one is part of the Navy. (he) is motivated and successfully training ...

e. On 19 September 2000, the Navy Personnel Command disapproved the request for a waiver and directed separation with an RE-4 reenlistment code. On 22 September 2000, the CO directed an entry level separation by reason of "erroneous entry - drug abuse)", with a Separation Program Designator (SPD) of "JFU", and an RE-4 reenlistment code. He was so separated on 25 September 2000. At that time, the CO signed a letter of appreciation acknowledging Petitioner's excellent performance and conduct while in recruit training.

f. Petitioner states in his application that he was told that he would have a second chance and could stay in the Navy if he successfully completed recruit training. He states that he was within days of completing recruit training when he was separated. He obviously believes that he fulfilled his end of the bargain and was improperly separated.

g. Attached to enclosure (1) is an advisory opinion from the Navy Personnel Command recommending that the reenlistment code not be changed because the request for a waiver was properly denied.

h. Regulations require the assignment of an RE-4 reenlistment code when an individual is separated by reason of erroneous enlistment - drug abuse. When an individual is separated by reason of one other form of erroneous enlistment (SPD "JFC") a full range of reenlistment codes is available including an RE-3E reenlistment code.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. In reaching its decision, the Board notes that the regulations authorized his separation and he has been treated no

differently than numerous others individuals who tested positive on an accession urinalysis. Accordingly, his separation from the Navy was proper. However, his case is different from others because he was retained in recruit training and served in an excellent manner, as documented by the letters of the division commander and CO at RTC. Given the circumstances, the Board concludes that Petitioner's record should be corrected to allow him another opportunity to serve in the military.

Since an RE-4 reenlistment code is required when an individual is separated by reason of erroneous enlistment due to drug abuse, the Board believes the narrative reason for separation and SPD code should be changed to "Erroneous entry (other)" and "JFC", respectively. The record should then be corrected to show that he was assigned an RE-3E reenlistment code vice the RE-4 reenlistment code now of record. The RE-3E reenlistment code will alert recruiters that there is a problem that must be resolved before enlistment can be authorized.

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 DD Form 214 to show that he was separated from the Navy on 25 September 2000 by reason of erroneous entry - other (SPD JFC), with an RE-3E reenlistment code, vice the narrative reason for separation, SPD 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.

ROBERT D. ZSALMAN
Recorder



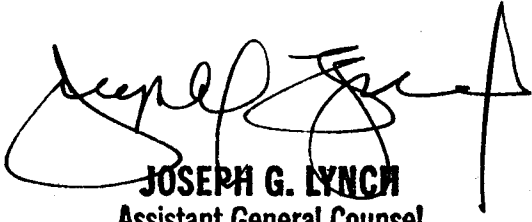
ALAN E. GOLDSMITH
Acting Recorder

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



W. DEAN PFEIFFER

Reviewed and approved:



JOSEPH G. LYNCH
Assistant General Counsel
(Manpower And Reserve Affairs)

DEC - 6 2001