



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

JRE
Docket No: 7730-01
14 November 2001

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
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that her naval record be corrected to show that she was assigned a reenlistment code more favorable than the code of RE-4 she was assigned on 30 July 1998.

2. The Board, consisting of Messrs. Hogue, Kastner and Mazza reviewed Petitioner's allegations of error and injustice on 1 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. Enclosure (1) was filed in a timely manner.

c. Petitioner served in the Navy on from 8 to 30 July 1998, when she was discharged for failure to meet medical/physical standards for enlistment, due to asthma. She was assigned a reenlistment code of RE-4, as required by governing directives. On 27 June 2001, she was evaluated by a pulmonary specialist, who determined that there was no clinical evidence of asthma at that time. In his opinion, she may have had bronchial hyperactivity in the past as demonstrated in a methacholine study, but this did not necessarily equate to clinical asthma. He cleared her from a medical standpoint to reenlist in the Navy.

d. SECNAVINST 1900.8 provides, in effect, that Sailors discharged for failing to meet

procurement medical/physical standards will be assigned an RE-4 reenlistment code. Those discharged because of erroneous enlistment may be assigned a code of RE-4 or RE-3E, in the discretion of the commanding officer.

e. Petitioner contends that the condition which resulted in his discharge does not exist, and that she wants to be eligible for reenlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board was not persuaded that Petitioner's discharge by reason of her failure to meet minimum physical standards was erroneous. It concludes, however, that the assignment of the stigmatizing reenlistment code of RE-4 is unjust. Accordingly, 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 30 July 1998, she was discharged by reason of erroneous enlistment, and assigned a reenlistment code of RE-3E.

b. 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