



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

TRG
Docket No: 398-02
18 September 2002

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 an application with this Board requesting that her record be corrected to show that she was separated by reason of hardship vice pregnancy or childbirth.

2. The Board, consisting of Mr. Beckett, Ms. Nofzieger and Mrs. McCormick, reviewed Petitioner's allegations of error and injustice on 17 September 2002 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 Navy on 27 October 1994 at age 19. In connection with her enlistment, she elected to participate in the Montgomery G. I. Bill (MGIB) and subsequently paid the \$1,200 needed to qualify.

d. The performance evaluation in the record for the period ending 10 June 1996 shows that she served in an excellent manner. The separation documentation is not filed in the record, but the DD Form 214 shows that she was honorably released from active duty on 10 June 1996 due to pregnancy or childbirth. At that time, she was assigned a Separation Program Designator (SPD) code

of MDF, which indicates that her separation was voluntary. The DD Form 214 shows that she had completed 1 year, 7 months and 13 days of active service.

e. The Board is aware that Petitioner is not eligible for the MGIB because she did not complete 30 months of active duty, and there is no provision in the law that would allow a refund of the \$1,200. However, she would be eligible for payments under the MGIB, based on her 19 months of active service if her separation was involuntary. As indicated, the SPD of MDF means her separation was voluntary. An SPD of JDF would indicate that her separation was involuntary, and would allow 19 months of benefits.

f. Petitioner states that she was married to an active duty member, and there was no one to take care of their child if they were both deployed. Therefore, she requested discharge. She further states that she was completely unaware that the early separation would make her ineligible for MGIB benefits. She is requesting a hardship discharge because she believes that reason for discharge will establish her eligibility for the MGIB.

g. The Board is aware that if Petitioner had not voluntarily requested separation, she probably would not have been able to stand watches or be eligible for shift work and deployments. If so, she could not have signed a dependent care certificate and would have been involuntarily separated.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Concerning her request for a hardship discharge, the Board notes that pregnancy or childbirth is not considered to be a hardship and that she has not been treated any differently than many others in her situation. Therefore, the Board concludes that a change in the reason for her separation is not warranted. However, the Board notes that although she requested separation, it appears that she really did not have many options in the matter. The Board believes that had she not requested separation, she eventually would have been processed for an involuntary separation due to her inability to provide a valid dependent care certificate. Given the circumstances, including her excellent record of service, the Board concludes that Petitioner's SPD code should be changed to JDF so that she can obtain 19 months of MGIB benefits.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on

10 June 1996 she was assigned a Separation Program Designator (SPD) code of JDF vice the SPD of MDF now of record.

b. That her request for a hardship discharge be denied.

c. 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