



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

TRG
Docket No: 3253-02
1 May 2003

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, an enlisted member in the Naval Reserve, filed an application with this Board requesting that his record be corrected to show a better characterization of service, separation code and reenlistment code.

2. The Board, consisting of Mr. Leeman, Mr. Pfeiffer, and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 15 April 2003 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 on 29 July 1997 at age 24. At that time, he elected to participate in the Montgomery G. I. Bill (MGIB). One of the requirements to receive (MGIB) benefits is a fully honorable characterization of service.

d. During 1998, he received nonjudicial punishment (NJP) for a unspecified period of unauthorized absence. In addition, he was counseled concerning that period of absence and his diagnosis of alcohol dependence. He then served without incident until 18 September 2000. On that date, he received his second (NJP) for an unspecified period of unauthorized absence and disobedience. In a related action, his plane captain designation was revoked. On 24 April 2001 he received his third NJP for

disobedience.

d. On 9 June 2001 Petitioner acknowledged that his service would be characterized as being under honorable conditions "due to a continuous pattern of misconduct and behavior unbecoming a service member." His performance evaluation for the period 11 February to 28 July 2001 is adverse with "below standard" marks of 1.0 in three categories and "progressing marks" of 2.0 in two categories and a meets standards mark of 3.0 in one category. The individual trait average (ITA) is 1.67. In addition he was not recommended for promotion and retention in the Navy. He was released from active duty on 28 July 2001 with his service characterized as being under honorable conditions. The Narrative reason for separation was "Non-Retention on active duty" and the separation program designator was "LGH". He was not recommended for reenlistment and was assigned an RE-4 reenlistment code. There are no periods of lost time entered on his DD Form 214, which indicates that his periods of unauthorized absence were each less than one day.

e. The only performance evaluation available to the Board is the last evaluation discussed in the preceding subparagraph. Regulations state that when an individual is released from active duty, he must receive the type of discharge warranted by the service record based on marks assigned during periodic evaluations. At the time of Petitioner's separation an average of 2.0 in all the ITA marks assigned during an enlistment was required for an honorable characterization of service.

f. The description in the regulation that corresponds to a narrative reason for separation of "non-retention on active duty" with an SPD code of LGH is "involuntary release or transfer to another service component". An RE-4 reenlistment code means that an individual is not eligible or recommended for reenlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants partial favorable action. The Board notes his period of good service from 14 April 1998 to 17 September 2000, the apparently very short periods of unauthorized absence and the fact that he completed his four year active duty obligation. Further, it appears that the short periods of absence could be explained by alcohol abuse. Since he completed his enlistment, his service must be based on the ITA computed from all the evaluations during his enlistment. Given his period of good service, the Board believes that if all the evaluations were available his ITA might very well exceed the 2.0 requirement. In addition, the Board is aware that unless he has an honorable characterization of service

he is not entitled to his MGIB benefits. Therefore, the Board concludes that any doubt as to the proper characterization of service should be resolved in his favor. Accordingly, the characterization of service assigned on his release from active duty on 28 July 2001 should be changed to honorable

Concerning the reason for separation and SPD code, the Board notes that the reason "non-retention on active duty" and SPD of LGH are assigned to many other servicemembers, especially when reenlistment is denied and an individual is released from active duty, and they are not erroneous. Therefore, the Board concludes that changes in the reason for discharge and SPD code are not warranted.

Concerning the reenlistment code, the Board concludes that the overall record, and especially the final performance evaluation, was sufficient to support the assignment of the RE-4 reenlistment code and a change in that code is not warranted.

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 his characterization of service was changed.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 28 July 2001 he was released from active duty with his service characterized as honorable vice the under honorable conditions characterization of service now of record.

b. That the remainder of Petitioner's requests 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