



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

JRE
Docket No: 5780-02
20 December 2002

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 that his reenlistment code be amended. He contends that he does not have a perforated eardrum.

2. The Board, consisting of Messrs. Grover, Neuschafer and Pauling, reviewed Petitioner's allegations of error and injustice on 12 December 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. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted on 28 September 2000. On day of training 2-5, he complained of ear pain, hearing loss and tinnitus. He was noted to have a retraction of the left eardrum, as well as a small perforation. At that time he disclosed a history of emplaced ear tubes, and frequent ear infections. Given those findings, his complaints, and his refusal to undergo surgery to repair the ear drum, he was recommended for an entry level separation. He was discharged on 3 November 2000 by reason of his failure to meet procurement medical fitness standards, and assigned a reenlistment code of RE-4. He was examined by a civilian physician on an unspecified date following his discharge. The physician observed the retraction of the ear drum, but did not note a perforation.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's separation was proper. He failed to meet procurement medical standards because of the symptoms associated with his ear pathology. The post-service findings of his private physician were considered insufficient to demonstrate that he did not have a perforated eardrum while he was in the Navy, or that his discharge was erroneous. Notwithstanding the foregoing, the Board does not feel that it is fair that he be stigmatized by a reenlistment code of RE-4; accordingly, it recommends the following corrective action.

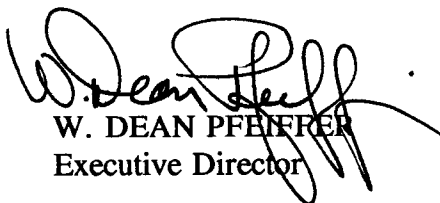
RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that he was assigned a reenlistment code of RE-3E, vice RE-4, on 3 November 2000.
 - b. That so much of Petitioner's request for correction of her naval record as exceeds the foregoing be denied.
 - c. 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 PFEIFER
Executive Director