



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

TJR
Docket No: 5911-02
15 August 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

Ref: (a) 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, applied to this Board requesting that the RE-4 reenlistment code be changed.
2. The Board, consisting of Messrs. Carlsen, Frankfurt, and Swarens, reviewed Petitioner's allegations of error and injustice on 13 August 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 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 the merits.
 - c. Petitioner first enlisted in the Navy on 14 November 1983. On 26 January 1988 he reenlisted for six years as a second class signalman. He received no disciplinary actions during his reenlistment. Further, his performance was satisfactory during the first three years of this period.
 - d. Petitioner's record contains an adverse performance evaluation, for the period 1 April 1991 to 31 March 1992, in which he received an overall rate of 2.6 and was not recommended for advancement or retention. The reporting senior stated, in part, as follows:

(Member) has shown little progress during this reporting period. He has put forth a sincere effort, but lacks the aptitude for success as a Signalman. His in rate knowledge and abilities are below those required for a Second Class Signalman and his performance is often below that expected of a Second Class Petty Officer and sailor in the Navy. Low in rate proficiency: Has failed to show noticeable improvement despite numerous training attempts. Low in initiative: Rarely practiced rating skills and failed to participate in several training opportunities. Unpredictable behavior: On several occasions directed explosive outbursts at his seniors. His poor behavior and inability to work well with others led to his removal from the work-center and the signal bridge. Works well alone, but not well with others. Until he displays a dramatic improvement he is not recommended for advancement or retention.

e. On 3 August 1992 the Chief of Naval Personnel (CNP) issued Petitioner a letter of substandard service that placed him on the petty officer quality control program as of March 1992 because his performance was below acceptable standards. The letter stated that improved performance was mandatory and that until such time that he had demonstrated significant improvement, he was not eligible for retention in the Navy. In this regard, the letter stated, in part, as follows:

Your performance must improve to a level in keeping with the traditionally high standards of the Navy. Failure to improve will result in your ineligibility for retention. Should you demonstrate 24-months of significantly improved performance you may request removal of this restriction. Removal is not automatic after 24 months. It must be requested. Should you elect separation at your EAOS or are separated via administrative or judicial action prior to displaying 24 months of improved performance, you will be assigned an RE-4 reenlistment code.

You may request an extension of enlistment to complete the 24 months of Quality Control. Your request must be forwarded via your commanding officer and will not be approved unless your performance record indicates significant potential for retention.

f. Petitioner's record contains a performance evaluation for the period 1 April 1992 to 31 March 1993 in which he received an overall rate of 3.6. The reporting senior stated that Petitioner had "turned himself around" and had shown increased initiative and reliability. At that time he was recommended for advancement and retention.

g. On 5 February 1993 Petitioner submitted a letter of rebuttal to the letter of substandard service stating, in part, that there was no documentation in his record which indicated adverse performance in regards to his rating knowledge and job performance.

h. Prior to Petitioner's discharge he received a performance evaluation from the period 1 April 1993 to 16 December 1993 in which he received an overall rate of 3.8, and was recommended for retention. However, at that time Petitioner also signed an administrative remarks entry which noted that he was not recommended for reenlistment and that he would be assigned an RE-4 reenlistment code as a result of being assigned to petty officer quality control.

i. On 16 December 1993, Petitioner was so discharged by reason of reduction in force and was assigned an RE-4 reenlistment code.

j. In Petitioner's application he contends that he does not know why he was assigned an RE-4 reenlistment code because he was honorably discharged by reason of reduction in force. He also notes that his last enlisted performance evaluation recommended him for advancement and retention.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board initially notes that Petitioner served without disciplinary incident. Additionally, although the Board is aware of his substandard performance during the period from 1 April 1991 to 31 March 1992, his 3.6 and 3.8 overall evaluations for the following two performance ratings periods, from 1 April 1992 to 16 December 1993, clearly reflect the sort of significant improvement in his performance contemplated by the petty officer quality control program. The Board reaches this conclusion even though he completed only about 21 of the 24 months of improved performance called for by the program. Furthermore, in both of the later evaluations, Petitioner was recommended for advancement and retention.

The Board further notes the letter of substandard service and its requirements for avoiding the assignment of an RE-4 reenlistment code upon separation, specifically, that the individual request an extension to complete 24 months of improved performance. Although Petitioner made no such request, the Board concludes that had Petitioner not been separated by reason of reduction in force, his performance would have continued to improve and he would have met the requirements of the letter of substandard service. Accordingly, the Board concludes that relief in the form of an RE-1 reenlistment code is appropriate.

In view of the foregoing, 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 Petitioner was assigned an RE-1 reenlistment code on 16 December 1993, vice the RE-4 reenlistment code actually assigned on that same day.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

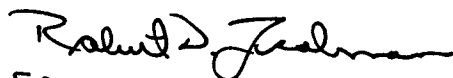
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 5e of the Procedures for the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6[e]), and having ensured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the provisions of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER
Executive Director