



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

WMP
Docket No. 07384-01
21 March 2002

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) OPNAVINST 1160.5C

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) 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, in effect, that his reenlistment code be changed.

2. The Board, consisting of Ms. Humbard, LeBlanc, and Suiter reviewed Petitioner's allegations of error and injustice on 20 March 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 to the Board 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 Naval Reserve on 16 November 1985 at age 17 in pay grade E-1. He reported for 36 months active duty on 20 November 1985 in the Active Mariner Program.

d. Petitioner served without incident until 13 November 1986, when he received nonjudicial punishment for failure to obey a lawful order. Punishment imposed was forfeitures of \$50 and seven days restriction. On 30 July 1987, Petitioner again received nonjudicial punishment for failure to obey a lawful

order. Punishment imposed was forfeitures of \$100 and 10 days restriction.

e. Petitioner then continued to serve without further incident, receiving two performance evaluations, that assigned a satisfactory overall rating of 3.4. However, on 19 November 1988, he was not recommended for reenlistment due to failure to meet the professional growth criteria for his pay grade. The enlisted performance evaluation for the period of 31 March 1988 to 19 November 1988 was not made a part of his military records, and his Enlisted Performance Record (Page 9), does indicate that he was not recommended for retention. However, the Page 9 reflects that he received an overall rating of 3.6 on this evaluation, with no mark lower than 3.4. The record reflects that on 19 November 1988 he was transferred to the Naval Reserve upon completion of his term of active obligated service with an RE-4 reenlistment code.

f. Reference (b) provides that for the first reenlistment an individual must in order to meet the professional growth criteria be serving as a petty officer, serving in pay grade E-3 having passed an advancement examination to pay grade E-4 and be currently recommended for advancement, or have formerly been a petty officer in the current enlistment and be currently recommended for advancement to pay grade E-4. Reference (b) further states that upon separation from active duty, members serving in pay grades E-3 who have failed to meet these criteria, but who are eligible in all other respects and recommended for advancement, shall be assigned reenlistment eligibility code RE-3R (Eligible for Probationary Reenlistment).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. It appears to the Board that Petitioner may have been issued an RE-4 reenlistment code based solely because of his failure to meet the professional growth criteria and not due to the commanding officer's non-recommendation for reenlistment. In this regard, the Board notes the satisfactory marks on the last evaluation, and concludes that Petitioner most probably was recommended for advancement. Without substantial documentation that states that he was not recommended for advancement or reenlistment, the Board believes that assignment of an RE-4 reenlistment code was unjust, given his apparent eligibility for the more favorable RE-3R reenlistment code. 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 by changing

the RE-4 reenlistment code, assigned on 19 November 1988, to RE-3R.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

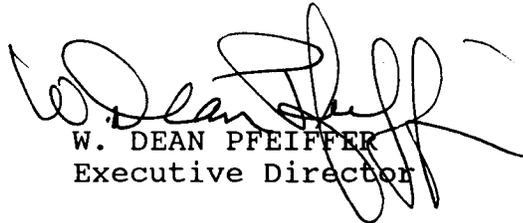
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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