



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

SMW

Docket No: 5711-07
12 May 2008

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

Encl: (1) Case Summary
(2) HQMC MMSR-3 memo dtd 31 Jan 08
(3) HQMC MMER/RE memo dtd 13 Mar 08
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps Reserve, applied to this Board requesting to change his reason for separation "Fraudulent Entry Into Military Service" and RE-3F reenlistment code.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 May 2008, and pursuant to its regulations, determined that the limited 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. On 3 April 2006, Petitioner enlisted in the Marine Corps Reserve at age 17 with parental consent. On 10 October 2006, he was issued orders to report to recruit training. However, he left the airport before boarding his flight and did not

comply with his orders. On 12 October 2006, while Petitioner was in absentia, his commanding officer at recruit training initiated an entry level separation by reason of erroneous enlistment, fraudulent entry, and void enlistment. On 12 October 2006, the separation authority directed an entry level separation by reason of fraudulent entry. On that same date he was so discharged and assigned an RE-3F reenlistment code.

d. In his application, Petitioner states that he did not enlist fraudulently and did not comply with the orders due to personal obligations. He further states that he would like to become a Marine officer when he completes his college degree.

e. Attached as enclosure (2) is an advisory opinion from the Headquarters Marine Corps (HQMC) Separation and Retirement Branch, which states, in part, as follows:

...Upon further review, it has been determined that [Petitioner] should have been discharged with a Separation Code of JGA1 vice JDA1 with a narrative reason for separation as "Entry Level Performance and Conduct" vice "Fraudulent Entry Into Military Service"...We recommend [Petitioner's] DD Form 214 be corrected accordingly...

f. Attached as enclosure (3) is an advisory opinion from HQMC Performance Evaluation Review Branch, Personnel Management Division, which states, in part, as follows:

...it has been determined that [Petitioner's] reenlistment code of RE-3F was correctly assigned. The reenlistment code was assigned based on his overall record and simply means that he failed to complete recruit training...

g. Regulations authorize separation of a member by reason of fraudulent entry into the military service if the member intentionally fails to disclose disqualifying enlistment criteria. Regulations authorize separation of a member by reason of entry level performance and conduct if the member is unqualified for further service as evidenced by incapability, lack of reasonable effort, failure to adapt to the Marine Corps environment, or minor disciplinary infractions. Regulations authorize assignment of an RE-3F reenlistment code when a member fails to complete recruit training.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concurs with the recommendations provided by the advisory opinions. Accordingly, the Board concludes that Petitioner's record should be corrected to show that he was discharged with an entry level separation by reason of entry level performance and conduct.

RECOMMENDATION:

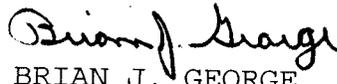
a. That Petitioner's naval record be corrected to show that he was separated with an entry level separation by reason of entry level performance and conduct on 12 October 2006, vice the entry level separation by reason of fraudulent entry into the military service that was actually issued on that date.

b. That no further relief be granted.

c. That this Report of Proceedings be filed in Petitioner's naval record so that all future reviewers will understand the reason for the changes in his 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


BRIAN J. GEORGE
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 Regulation, 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.


for W. DEAN PFEIFFER
Executive Director