



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

TRG
Docket No: 7464-07
7 August 2008

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

Subj: REVIEW OF NAVAL RECORD OF EX-CPL [REDACTED] USMCR,
[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, a former member of the Marine Corps, filed an application with this Board requesting that the reason for his discharge and the related separation program designator (SPD) be corrected.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 July 2008 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 was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and consider the application on its merits.

c. Petitioner enlisted in the Marine Corps on 22 November 1988. On 21 August 1992 he was released from active duty and transferred to the Marine Corps Reserve in the grade of corporal. At that time, he was assigned an RE-1A reenlistment code.

d. Petitioner affiliated with a reserve unit on 13 November 1996 and at that time extended his enlistment for 11 months. He was honorably discharged on 21 October 1997. At that time, he was assigned an SPD code of HKK which means that he was discharged by reason of misconduct due to drug abuse.

e. Attached to enclosure (1) is an advisory opinion from Headquarters Marine Corps which states as follows:

... On 3 October 1997 [Petitioner] was counseled for illegal drug use, specifically THC. [He] was not available for signature due to being absent from drill. HKK1 is the proper separation code for drug abuse. However, no documentation exists in [his] service record or at the Personnel Management Support Branch to support a separation code of HKK1.

... A review of [his] record does not show he was administratively separated due to illegal drug abuse. [He] should have been separated due to expiration of contract on 21 October 1997.

...Based on the above, this Headquarters recommends that [his] separation code be changed to MBK3...

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Although it appears that he may have had a positive urinalysis, it is clear that there was insufficient time before the expiration of his enlistment to process him for discharge due to drug abuse. Therefore, the Board agrees with the recommendation contained in the advisory opinion that his record should be corrected to show that he was discharged at the expiration of his enlistment with an SPD of KBK3.

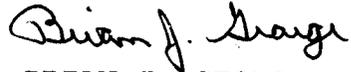
The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reasons for the change in the separation code.

RECOMMENDATION:

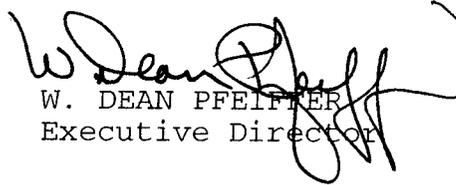
- a. That Petitioner's naval record be corrected to show that on 21 October 1997 he was assigned an SPD of KBK3 vice the HKK SPD now of record.
- b. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and

complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


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 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