



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

SJN
Docket No: 09103-07
21 August 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) DD Form 149 with attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting a change to his RE-4 reenlistment code.
2. The Board, consisting of Ms. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 19 August 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. Enclosure (1) was filed in a timely manner
 - c. Petitioner enlisted in the Navy on 6 July 1995 at age 19. He served for over 12 years without disciplinary action, received the Navy-Marine Corps Achievement Medal, and two Good Conduct Medals. Although the record reflects that he failed the physical fitness assessment (PFA) on three occasions, he was advanced to petty officer second class and his evaluations reflected generally excellent performance.

d. Petitioner signed an enlisted performance evaluation covering the period from 16 March to 20 July 2007 in which he was not recommended for advancement or retention. This evaluation assigned adverse marks in the marking category of military bearing, but satisfactory marks in all other categories. The evaluation also noted that he failed three PFA's within a four-year period. On 20 July 2007, Petitioner was honorably discharged and assigned an RE-4 reenlistment code.

e. With his application, Petitioner states that on 2 April 2006, he reported to his ship's physician after he fell down a ladder-well while the ship was underway. Further, he states that it was later determined that he had a tear in his right knee, and due to that fact that he could not perform any physical activity, he failed the PFA.

f. The reenlistment code of RE-4 means that he is not recommended for reenlistment. However, he could have been assigned a reenlistment code of RE-3F, meaning that he failed the PFA.

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record, a majority of the Board, consisting of Ms. Epstein and Mr. Wade, concludes that Petitioner's request warrants favorable action.

The majority bases its recommendation on Petitioner's overall record of military service, including his promotion to petty officer second class, the lack of disciplinary action, and personal awards. The majority therefore concludes that no useful purpose is served by the assignment of the most restrictive reenlistment code of RE-4, and assignment of the RE-3F code more accurately reflects the quality of his service.

MAJORITY RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 20 July 2007, he was assigned an RE-3F reenlistment code vice the RE-4 actually assigned on that date.

b. That a copy of this report of proceedings be filed in Petitioner's naval record.

c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received on 9 October 2007.

MINORITY CONCLUSION:

Ms. Mann disagrees with the majority and concludes that Petitioner's request does not warrant favorable action.

The minority notes that although Petitioner's overall record is satisfactory, he had over 12 years of service, had taken the PFA many times before, and had plenty of opportunity prior to his third failure and knee injury to conform to the Navy's PFA standards. Thus, the RE-4 reenlistment code was properly assigned and should not be changed now.

In view of the foregoing, the minority finds no injustice warranting corrective action.

MINORITY RECOMMENDATION:

a. That Petitioner's request be denied.

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.

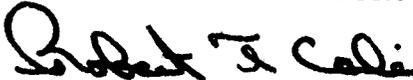
ROBERT D. ZSALMAN
Recorder


BRIAN J. GEORGE
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.


W. DEAN PFEIFFER

MAJORITY REPORT APPROVED:

 8-26-08

~~MINORITY REPORT APPROVED:~~