



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

JRE
Docket No: 10288-07
31 July 2008

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner applied to this Board requesting her naval records be corrected to show that she was discharged for a reason other than fraudulent entry.

2. The Board, consisting of Ms. [REDACTED] and Messrs. [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 31 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. Petitioner enlisted in the Navy on 10 May 2007. On 16 May 2007, she was recommended for discharge by reason of erroneous enlistment, and for fraudulent entry into the naval service, based on her history of attention deficit/hyperactivity disorder, which existed prior to her enlistment. The separation authority directed that she be discharged with an uncharacterized entry level separation by reason of fraudulent entry. She was so discharged on 23 May 2007.

c. Petitioner's attorney contends, in effect, that her disqualifying condition would have been obvious to any observer, and that she was accepted into the Navy in order to meet recruiting goals. She is a loyal American who wanted to serve her country, and not someone to be accused of fraud. In addition, he notes that Petitioner is referred to as a male in a section of the recommendation for discharge, which indicates that

the separation action was not given the attention it warranted.

CONCLUSION:

Upon review and consideration of all the evidence of record, and after resolving doubt in Petitioner's favor, the Board concludes that it would be in the interest of justice to correct her record to show that she was discharged by reason of erroneous enlistment because of her failure to meet the physical standards for enlistment, in accordance with Military Personnel Manual article 1910-130, vice by reason of fraudulent entry.

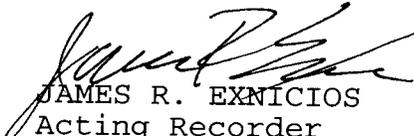
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 23 May 2007, she was discharged by reason of erroneous enlistment/failure to meet physical standards for enlistment, in accordance with Military Personnel Manual article 1910-130, vice by reason of fraudulent entry.

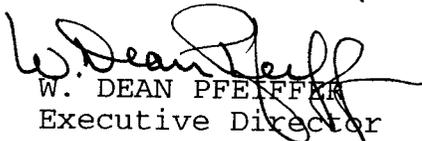
b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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


JAMES R. EXNICIOS
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