



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

SMW

Docket No: 11012-07
30 January 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) 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 an honorable discharge and RE-3B reenlistment code vice the general discharge and RE-4 reenlistment code that was issued on 30 September 1998.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 29 January 2008, and pursuant to its regulations, determined that the partial 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 Petitioner's application 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. On 15 May 1995, Petitioner enlisted in the Navy at age 22. On 8 April 1997, he was selected as Photographer's Mate of the Quarter and received a letter of appreciation. On 2 June 1997, he received another letter of appreciation. On 15 July and 10 December 1997, he received satisfactory performance evaluations that recommended retention and promotion.

d. During the period 13 July to 14 August 1998, Petitioner was in an unauthorized absence (UA) status. On 25 August 1998,

Petitioner was counseled regarding his inability to be available for worldwide assignment due to parenthood. On 27 August 1998, he had nonjudicial punishment (NJP) for the 32 day period of UA and missing the movement of his ship. Punishment included a reduction in rank, and suspended restriction and forfeitures of pay.

e. Petitioner subsequently completed a family care certificate in which he indicated that he could not comply with dependent care responsibilities. On 11 September 1998, his commanding officer initiated administrative separation by reason of convenience of the government due to parenthood. In connection with this processing, Petitioner acknowledged that separation could result in no less than a general discharge. On 25 September 1998, the separation authority approved the separation recommendation and directed a general discharge by reason of convenience of the government due to parenthood. On 30 September 1998, he was so discharged and assigned an RE-4 reenlistment code.

f. Petitioner states that he was discharged due to parenthood because he had custody of his son and had no one to care for him, which was the reason for the UA. He further states that he needs his discharge upgraded in order to attend college using the Montgomery G.I. Bill. He further requests that his reenlistment code be changed to RE-3B, since that code is authorized for individuals who are discharged due to parenthood.

g. Regulations authorized characterization of service to be determined, in part, by marks assigned on a periodic basis. An average of 2.8 in overall trait and 3.0 in military behavior were required for a fully honorable characterization of service. Petitioner's final performance evaluation marks are not currently contained in the record.

h. Regulations also authorized assignment of an RE-4 or RE-3B reenlistment code to individuals who are discharged by reason of convenience of the government due to parenthood.

CONCLUSION:

Upon review and consideration of all evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, the Board finds that Petitioner's final evaluation marks are not currently contained in the record. Therefore, given the NJP, the Board found that the general characterization of service by reason of convenience of the government due to parenthood was processed in accordance with regulations. However, the Board further finds that Petitioner's contention of being in a UA status due to having custody of his son was supported by his commanding officer's decision to

administer NJP, suspend the majority of the punishment, and then process him for an immediate convenience of the government discharge due to parenthood. Therefore, given Petitioner's overall service record, the Board concludes that Petitioner's reenlistment code should be changed to RE-3B.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was assigned an RE-3B reenlistment code on 30 September 1998, vice the RE-4 actually assigned on that date.

b. That no further relief be granted.

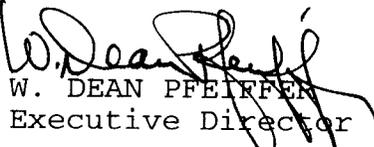
c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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


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.


W. DEAN PFEIFFER
Executive Director