



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

TJR
Docket No: 11095-07
7 August 2008

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USMC,
[REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) MARCORSEPMAN MCO P1900.16F

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 that the characterization of his release from active duty and reenlistment code be changed.
2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 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. Although it appears that enclosure (1) 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. Petitioner enlisted in the Marine Corps on 19 September 1995 at the age of 18.

d. During the period from 1 November 1996 to 13 March 1999 Petitioner received counselling regarding his nonrecommendations for promotion due to being overweight, lack of leadership abilities, poor military appearance, lack of motivation and maturity, and deficiencies in his performance.

e. On 13 July and 23 August 1999 Petitioner received nonjudicial punishment (NJP) for absence from his appointed place of duty and wrongful appropriation of a government computer.

f. On 18 September 1999, upon completion of Petitioner's required active service, he was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) which reflects that he was released from active duty under honorable conditions and transferred to the Marine Corps Reserve. The DD Form 214 also reflects an RE-3P reenlistment code.

g. On 24 October 2002 Petitioner was honorably discharged at the expiration of his obligated term of service.

h. At the time of Petitioner's release from active duty, his conduct average of 4.4 exceeded the average mark of 4.0 that was required for a fully honorable characterization of service.

i. Reference (b) authorizes the issuance of an RE-3P reenlistment code to Marines who were separated due to failure to meet the Marine Corps' physical and/or medical standards. Reference (b) also authorizes the issuance of an RE-1B for Marines, such as Petitioner, who were released from active duty, transferred to the Marine Corps Reserve, and were otherwise recommended for reenlistment, but retention was denied by the Commandant Marine Corps.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

Although the Board does not condone Petitioner's infractions, its decision is based on his length of service and periodic conduct marks. As such, his conduct average exceeded the requirements for a fully honorable characterization of service. Consequently, the Board concludes that no useful purpose is served by continuing to characterize his service as having been under honorable conditions.

The Board further notes that since Petitioner was not processed for separation due to his failure to meet the Marine Corps' physical and/or medical standards, but recommended for reenlistment, the RE-3P reenlistment code was inappropriately assigned. As such, the Board concludes that an RE-1B reenlistment code, which is also authorized by regulatory guidance for a Marine who was not recommended for retention, but was otherwise recommended for reenlistment at the completion of his obligated service, is more appropriate for Petitioner's situation.

In view of the foregoing, the Board concludes that relief in the form of recharacterization of Petitioner's discharge and a change of his reenlistment code are appropriate, and as such finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was honorably released from active duty and transferred to the Marine Corps Reserve on 18 September 1999 vice released and transferred under honorable conditions on the same day.

b. That Petitioner's naval record be corrected to show that he was assigned an RE-1B reenlistment code on 18 September 1999 vice the RE-3P reenlistment code actually assigned on that date.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

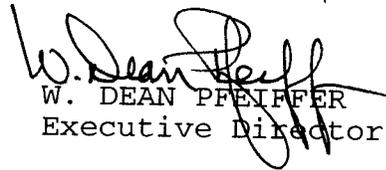
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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 PFENIFFER
Executive Director