



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

TJR  
Docket No: 3281-08  
5 February 2009

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

Subj: REVIEW 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 Navy, filed enclosure (1) with this Board requesting that his reenlistment code be changed.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 3 February 2009 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 Navy on 27 October 1998 at the age of 21. His record reflects that on 13 November 1998, after undergoing a medical examination, he was diagnosed as alcohol dependent. Subsequently, he was notified that he was being considered for an administrative separation by reason of defective enlistment due to a void entry into the Naval Service

as evidenced by his diagnosed alcohol dependency. In this regard, he waived his right to consult with legal counsel and did not object to the separation. At this same time he was advised that, due to his diagnosis, he was not recommended for reenlistment.

d. On 24 November 1998 Petitioner was issued a void enlistment due to alcohol dependence and was assigned an RE-4 reenlistment code.

e. Title 10, U.S.C. Section 978, provides that the enlistment of any person determined to have been dependent on alcohol or other drugs at the time of enlistment shall be voided, and the individual shall be released from custody and control of the Naval Service. However, such a determination must be made within 72 hours from the date of enlistment.

f. Petitioner basically states that he was not ready for military life when he entered the Navy 10 years ago, but is now ready to reenlist.

#### CONCLUSION:

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

The Board notes that Petitioner's alcohol dependence was not established within the 72 hour time limit required for a void enlistment. Therefore, the Board concludes that it would be appropriate to show that he was separated with an uncharacterized entry level separation by reason of erroneous enlistment. Further, the Board concludes that Petitioner's reenlistment code is appropriate given his diagnosis of alcohol dependency and his lack of evidence to prove that the Navy's diagnosis was in error.

In view of the foregoing, the Board 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 separated on 24 November 1998 with an uncharacterized entry level separation by reason of erroneous enlistment vice the void enlistment actually issued on that date.

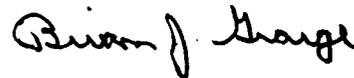
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. 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.

d. That no further relief be granted.

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