



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

TJR
Docket No: 5172-08
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 her reenlistment code be changed.

2. The Board, consisting of Messrs. [REDACTED], [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. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Navy on 14 September 2005 after five years of prior honorable service.

d. Petitioner's record contains an administrative remarks entry dated 19 December 2007 which states, in part, that the changes in her family care plan placed her in a nondeployable status. Shortly thereafter, on 24 January 2008, she submitted a family care certificate which stated that she could not comply

with the Navy Family Care (NFC) policy program due to legal circumstances. She also submitted a statement of explanation regarding the legal circumstances.

e. On 6 February 2008 the discharge authority directed separation with a characterization of service warranted her service record and an RE-3B reenlistment code. This recommendation also stated that an RE-4 reenlistment code may be assigned, if warranted by the service record.

f. On 25 February 2008 Petitioner's commanding officer recommended separation under honorable conditions by reason of convenience of the government due to parenthood as evidence by failure to comply with the NFC policy and unavailability for worldwide deployment. As a result, on 6 March 2008, the discharge authority again directed separation with a characterization of service warranted by the record and an RE-3B reenlistment code.

g. On 7 March 2008 Petitioner received nonjudicial punishment (NJP) for making a false official statement and forgery by signing a "sick-in-quarters" chit.

h. Petitioner's overall record reflects satisfactory to above average performance. In this regard, her record contains three performance evaluations for the period from 16 April 2004 to 30 January 2007 which recommended retention and stated that she was promotable. The individual trait averages (ITA) for these performance evaluations were 4.29, 4.43, and 4.43.

i. Petitioner was administratively processed for separation by reason of parenthood due to her inability to comply with the NFC policy program. As a result, on 21 March 2008 she was discharged under honorable conditions by reason of parenthood and assigned an RE-4 reenlistment code.

j. Character of service is based, in part, on ITAs. Petitioner's ITA at the time of her discharge was 4.4. An ITA of 3.0 was required at that time for a fully honorable characterization of service.

k. An RE-3B reenlistment code may be assigned to Sailors separated due to parenthood, pregnancy, and/or childbirth. This code may not bar reenlistment, but requires that a waiver be obtained from recruiting personnel who are responsible for determining whether an individual meets the standards for reenlistment, and whether or not a request for a waiver of a reenlistment code is feasible. A Sailor separated for this reason may also receive an RE-4 reenlistment code, which means that the Sailor is not recommended for retention or reenlistment.

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 Petitioner's disciplinary infraction and does not condone her misconduct. Nevertheless, the Board's decision is based primarily on Petitioner's overall satisfactory record of more than six years of honorable service. The Board also notes that her ITA exceeded requirements for a fully honorable characterization of service and that the discharge authority directed characterization of service as warranted by the service record.

The Board also notes that Petitioner's discharge was based solely on her nondeployable status due to parenthood. However, the Board concludes that even though an RE-3B reenlistment code is authorized by regulatory guidance for a Sailor who is separated for this reason, the RE-4 reenlistment code is warranted due to the seriousness of her misconduct which resulted in NJP.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

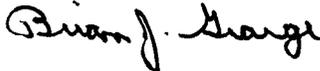
a. That Petitioner's naval record be corrected to show that she was honorably discharged on 21 March 2008 vice discharged under honorable conditions on that same date.

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.

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