



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

TJR:jdj  
Docket No: 5189-08  
28 August 2008



A three-member panel of the Board, sitting in executive session, considered your case on 5 August 2008 and recommended that your naval record be corrected as set forth in the enclosed proceedings dated 7 August 2008. However, in accordance with current regulations, the Assistant Secretary of the Navy for Manpower and Reserve Affairs conducted an independent review of the Board's proceedings and by his memorandum of 25 August 2008, a copy of which is enclosed, disapproved the Board's recommendation for corrective action.

You are advised that reconsideration of your case will be granted only upon the presentation of new and material evidence not previously considered by the Board and then, only upon the recommendation of the Board and approval by the Assistant Secretary.

I regret the circumstances of your case are such that favorable action cannot be taken.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director

Enclosures



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

TJR  
Docket No: 5189-08  
7 August 2008

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) Case summary  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps, applied to this Board requesting a change in his RE-4 reenlistment code.

2. The Board, consisting of Messrs. [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. Petitioner's application to the Board was filed in a timely manner.

c. Petitioner originally enlisted in the Marine Corps on 24 September 2004 at the age of 17. It appears that this enlistment was terminated on two occasions because he failed the Armed Services Vocational Aptitude Battery (ASVAB). Subsequently, he enlisted in the Marine Corps Delayed Entry Program (DEP) and was released on 18 July 2005. On 8 August 2005 Petitioner began a period of active duty in the Marine Corps.

d. Petitioner's medical record reflects that in January 2006 he was treated for an open fracture of his lower jaw, an injury sustained after he had passed out during an inspection. He also received treatment for pain in both of his knees after complaining of such pain for more than 18 months.

e. During the period from 7 to 9 February 2006 Petitioner was the subject of a psychiatric evaluation at a mental health unit after a suicide attempt. He was diagnosed with an adjustment disorder with a depressed mood, a dependent personality disorder, fracture mandible syncopal episode, and family, occupational, and financial stressors. Some of the key points of the psychiatric report stated, in part, as follows:

(Patient) attempted to end his life; having suicidal ideations for two months; absented himself because he felt he was going to hurt someone; joined USMC to make father happy - was a poor decision; does not like being told what to do - "tired of the USMC"; feels drained; treated for depression one week ago and prescribed Zoloft; admitted to psychiatric locked unit after an overdose of Vicodin tabs; diagnosed: adjustment disorder with a depressed mood, dependent personality disorder, fracture mandible syncopal episode, family, occupational, financial stressors

f. On 10 February 2006 Petitioner received nonjudicial punishment (NJP) for a four day period of unauthorized absence (UA) and was awarded a \$333 forfeiture of pay, and restriction and extra duty for 14 days. At that time he was also counselled regarding his misconduct. Shortly thereafter, on 13 February 2006, he received counselling regarding his diagnosed personality and adjustment disorders.

g. On 24 February 2006 Petitioner was again counselled regarding his personality and adjustment disorders and informed that as a result of the diagnosis, he was being recommended for an administrative separation. At that time a psychological evaluation report detailing the findings of the 9 February 2006 psychiatric evaluation and the recommendation for an administrative separation were forwarded to his commanding officer for further action.

h. On 6 March 2006 Petitioner was notified of pending administrative separation action by reason of convenience of the government due to a diagnosed personality disorder. He was informed that the least favorable characterization of service he could receive would be under honorable conditions and that he was not recommended for retention or reenlistment. His commanding officer recommended a general discharge in an expeditious manner and stated, in part, as follows:

(Member) was diagnosed with a dependent personality disorder on two separate occasions which renders him unsuitable for continued and successful military service. He was recommended for administrative separation because his disorder is so severe that it will prevent him from successfully serving in the future.

His long-standing disorder was brought to fruition out of frustration of recovering from a broken jaw sustained during the final week of recruit training. He absented himself without authority due to thoughts of hurting himself or someone else. Additionally, he has expressed suicide ideations, made a suicide gesture by taking Vicodin, experienced sleep difficulty, and been continually depressed and drained of energy. He has stated numerous times that he does not want to be a Marine and is tired of individuals telling him what to do.

i. On 21 April 2006 Petitioner was discharged under honorable conditions by reason of convenience of the government due to personality disorder and assigned an RE-4 reenlistment code.

j. In his application, Petitioner contends that he was misdiagnosed with a personality and adjustment disorder and that the Marine Corps made poor decisions based on his stress after he had sustained a broken his jaw. Included with his application is a letter from his mother which states that his discharge was unjust. The letter is also a request for reenlistment of her son in the Marine Corps now that he has matured.

k. An advisory opinion (AO) of 11 April 2007 from the Headquarters Marine Corps (Code M&RA MMER/RE) recommends that Petitioner's request for a change of his RE-4 reenlistment code be denied. In this regard, the AO points out that the code was correctly assigned based on his overall record and qualification for reenlistment at the time of his separation. The AO further states, as follows:

(Member) was discharged by reason of personality disorder and was assigned an RE-4 reenlistment code which indicates that he was not recommended for reenlistment.... the record indicates that he was counselled concerning a diagnosed personality and adjustment disorder, unauthorized absence and not being recommended for reenlistment.

l. An RE-4 reenlistment code is routinely assigned to a Marine who is not recommended for retention or reenlistment and is separated due to a diagnosed personality disorder, and the record reflects suicidal and/or homicidal risks. A Marine may also receive an RE-3C reenlistment code when it is directed by

the Commandant of the Marine Corps (CMC), or when the Marine is ineligible for retention and the disqualifying factor is not covered by another code. CMC authority is required for reenlistment.

CONCLUSION:

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

The Board's decision is based on Petitioner's overall record and the circumstances surrounding his diagnosed personality and adjustment disorders, his desire to again serve in the Marine Corps, and the character reference letter attesting to his maturity and good post service conduct.

The Board concludes that despite the AO, Petitioner's reenlistment code should be changed to a more favorable code of RE-3C. In this regard, the Board believes that his misconduct and diagnosed personality and adjustment disorders were directly related to his frustrations after he had broken his jaw. The Board also believes that Petitioner has matured and should not necessarily be prohibited from enlisting in the armed services and notes that changing the code will not necessarily result in his reenlistment, but will give him the opportunity to request such action and authorize an evaluation of his fitness for further service.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by showing that on 21 April 2006 he was assigned an RE-3C reenlistment code, vice the RE-4 reenlistment code 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.

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. The foregoing action of the Board is submitted for your review and action.

W. DEAN PFEIFFER

Reviewed and approved:

*disapproved:*  
*Robert A. Cali*  
*8-25-08*