



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

SMS

Docket No: 2132-08
27 October 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 United States Navy, applied to this Board requesting to change the RE-4 reenlistment code that was issued on 27 June 2004.

2. The Board, consisting of Ms. [REDACTED], Ms. [REDACTED], and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 22 October 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. On 28 June 2000, Petitioner enlisted in the Navy at age 19. He then served without incident, was promoted to pay grade E-4, and consistently received Evaluation Report and Counseling Records (NAVPERS 1616/26 (03-02)) in which his overall trait and quality of work averages were 4.07 and 5.0, respectively. On 24 February 2004, he had nonjudicial punishment for an unspecified period of unauthorized absence (UA) in which the punishment included a reduction in rank. On 10 March 2004, he

was counseled regarding the UA. On 21 April 2004, he was in a UA status for about one hour when he was late returning from liberty, but no disciplinary action was taken. There is no evidence in the record to show that an Evaluation Report and Counseling Record was submitted on 27 June 2004, when he was honorably released from active duty due to completion of required active service and assigned an RE-4 reenlistment code. On 14 February 2006, he was honorably discharged from the Navy Reserve to enlist in the Army Reserve.

c. In his application, Petitioner states that he served with honor, had an outstanding military service record, and requests to change the RE-4 reenlistment code.

d. Regulations authorize assignment of an RE-4 reenlistment code to service members serving in pay grade E-3 who are released from active duty due to completion of required active service and do not meet professional growth criteria. Regulations also authorize assignment of an RE-1 reenlistment code to service members who are released from active duty and meet minimum criteria for retention. Regulations also authorize, on a case by case basis, a waiver of professional growth criteria to affect an extension or reenlistment. Regulations further direct submission of an Evaluation Report and Counseling Record when a member serving in pay grades E-1 to E-6 is detached from a command.

CONCLUSION:

Upon review and consideration of all evidence of record, the Board concludes that Petitioner's request warrants relief. Specifically, the Board believes that his release from active duty was in accordance with regulations, but finds that the assignment of an RE-4 reenlistment code is not supported by a preponderance of evidence in the record, specifically, the Board finds that he attained pay grade E-4, consistently received Evaluation Report and Counseling Records in which his overall trait and quality of work averages were 4.07 and 5.0, respectively, and had an NJP that resulted in his reduction to pay grade E-3 about four months before he was released from active duty. The Board notes that although regulations direct submission of an Evaluation Report and Counseling Record when a service member serving in pay grade E-3 detaches from a command, there is no such report in his record, which, if submitted, would have documented the justification for assignment of an RE-4 reenlistment code. Furthermore, the Board finds that regulations authorize, on a case by case basis, retention waivers for service members who fail to meet

professional growth criteria. However, there is no evidence in the record to show that he failed to meet professional growth criteria. Given his overall service record and subsequent enlistment in the Army Reserve, the Board finds no reason not to change the RE-4 reenlistment code. Therefore, the Board concludes that the RE-4 reenlistment code should be changed to an RE-1.


RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was assigned an RE-1 reenlistment code on 27 June 2004, vice the RE-4 actually assigned on that date.


b. 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