



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

TRG  
Docket No: 2656-08  
1 August 2008

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a member of the Navy Reserve, filed an application with this Board requesting that he be assigned a reenlistment code.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 29 July 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 Petitioner's application was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and consider the application on its merits.

c. Petitioner enlisted in the Navy on 14 August 2001 for four years at age 18. He then served in a satisfactory manner for several years and was advanced to petty officer third class. On 4 January 2004 he received nonjudicial punishment (NJP) for three specifications of unauthorized absence (UA). The length of the periods of unauthorized absence are not set forth in the record but his DD Form 214 does not show any periods of lost time. The punishment imposed included a reduction in rate and forfeitures of pay.

d. In the performance evaluation for the period ending 15 July 2004, Petitioner was assigned a marginal mark of 2.0 in the

category of military bearing/character and the overall trait average was 3.0. The evaluation states that he was promotable and recommended for retention.

e. On 23 July 2004 Petitioner's request for an early separation from the Navy was approved. The message approving his separation states the reenlistment code to be assigned should be as warranted by the service record.

f. On 15 September 2004 Petitioner was released from active duty with an honorable characterization of service by reason of reduction in force. The DD Form 214 issued at that time has no entry in the reenlistment code block.

g. Attached to enclosure (1) is an advisory opinion from the Navy Personnel Command which states, in effect, that because of the conflicting information, the decision as to the assignment of a reenlistment code should be made by this Board. A computer printout was provided which shows a numeral 4 in a reenlistment code block.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board is aware that Petitioner received NJP for three unspecified instances of UA about nine months prior to his separation. However, it is also aware that he was recommended for retention in the evaluation ending on 15 July 2004. Given his overall good record and in the absence of evidence to the contrary, the Board believes that he should be given the benefit of any doubt and the recommendation contained in the evaluation should be controlling. Accordingly, Petitioner's record should be corrected to show that on 15 September 2004 he was assigned an RE-1 reenlistment code.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the rationale for the assignment of the RE-1 reenlistment code.

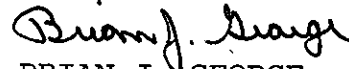
#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by issuing a DD Form 215, showing that on 15 September 2004 he was assigned an RE-1 reenlistment code.


b. That 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 Regulations, 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