



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

SMS
Docket No: 981-09
16 April 2009

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 member of the Marine Corps, applied to this Board requesting an RE-3 reenlistment code vice the RE-4 that was issued on 7 January 2003.
2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 April 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, advisory opinion, 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 was filed in a timely manner.
 - c. On 10 June 2002, Petitioner enlisted in the Marine Corps at age 18. On 2 November 2002, a medical evaluation recommended that he be discharged after he was diagnosed and received treatment for chronic left hip flexor adductor tendonitis and greater trochanteric bursitis. On 2 February 2002, his commanding officer initiated an entry level separation by reason of convenience of the government due to a condition not a disability. In connection with this processing, he acknowledged the separation action and submitted a statement indicating that he wanted to reenlist after he recuperated. On 23 December 2002, the separation authority approved the recommendation and directed an entry level separation by reason of convenience of the government due to a condition not a disability. On 7 January 2003, he was so discharged and assigned an RE-4 reenlistment code.

d. In his application, Petitioner requests an RE-3 reenlistment code so that he may be considered for reenlistment and participation in the Navy Reserve Officers Training Corps Scholarship Program. He further states that he was discharged due to a condition not a disability and there were no other physical problems. With his application, he provided a physical examination dated 1 December 2008, which found that he has no hip abnormalities.

e. Attached to enclosure (1) is an advisory opinion from Headquarters Marine Corps (MMER), which states, in part, as follows:

...[Petitioner's] record has been reviewed and it has been determined that at the time of separation he should have been assigned a reenlistment code of RE-3P, which means failure to meet medical/physical standards...

...[Petitioner] was administratively discharged by reason of a physical condition, not a disability... his record shows that he received a counseling addressing his medical condition...the assignment of the RE-4, that entry [sic] lacks correct justification...

...this headquarters recommends changing [Petitioner's] reenlistment code to RE-3P...

f. Regulations authorize assignment of an RE-4 reenlistment code to members who are discharged due to a condition not a disability. Regulations also authorize assignment of an RE-3P reenlistment code in such cases.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. Specifically, the Board concurs with the advisory opinion. In this regard, the Board finds that there is no justification in the record to assign him an RE-4 reenlistment code, since he has no disciplinary action and he was discharged due to a condition that was not a disability. Therefore, the Board concludes that his reenlistment code should be changed to RE-3P.

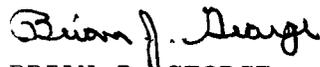
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an RE-3P reenlistment code on 7 January 2003, vice the RE-4 that was issued 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