



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

SMS  
Docket No: 1533-09  
23 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 enlisted member of the Marine Corps and current member of the Marine Corps Reserve, applied to this Board requesting an RE-1A reenlistment code vice the RE-4B that was issued on 30 October 2007, when he was released from active duty under honorable conditions.

2. The Board, consisting of Ms. [REDACTED], Ms. [REDACTED], and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 22 April 2009, and, pursuant to its regulations, determined that the limited 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, memorandum provided by Headquarters Marine Corps (HQMC) Performance Evaluation Review Branch (PERB), 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 7 October 2003, Petitioner enlisted in the Marine Corps at age 19. During the period 3 April 2004 to 29 September 2006, he participated in Operation Combined Joint Task Force Haiti and two operations in Iraq. On 26 January 2007, he was convicted by a summary court-martial for use of cocaine. On 30 October 2007, he was released from active duty under honorable conditions due to completion of required active service and assigned an RE-4B reenlistment code. At that time his awards included two combat

action ribbons, a Good Conduct Medal, an Armed Forces Expeditionary Medal, an Iraq Campaign Medal, a Humanitarian Service Medal, a National Defense Service Medal, two Sea Service Deployment Ribbons, a Global War on Terrorism (GWT) Expeditionary Medal and GWT Service Medal, and two Navy Unit Commendations.

d. Attached to enclosure (1) is a memorandum from Headquarters Marine Corps, which states, in part, as follows:

...it has been determined that at the time of separation [Petitioner] should have been assigned a reenlistment code of RE-4B, which means that there is a military or civilian in-service illegal drug involvement and there is no potential for further service...

...A review of the disciplinary portion shows that [Petitioner] received one Summary Court-Martial for violating Article 112a (wrongfully use, possession of controlled substance)...

...After a review of all relevant information, this Headquarters concurs in the professional evaluation of [Petitioner's] qualifications for reenlistment at the time of separation...

e. In his application, Petitioner states that the RE-4B reenlistment code was based on a biased opinion given by a retaining specialist and requests an RE-1A.

f. Regulations authorize assignment of an RE-1A reenlistment code if a member meets all reenlistment prerequisite criteria and is recommended for retention. Regulations also state that service members who have confirmed illegal use, possession, sale, or distribution of a controlled substance will not be granted a waiver to reenlist. Regulations further direct assignment of an RE-4B reenlistment code when a service member has a military or civil record of in-service illegal drug involvement and there is no potential for further service. Regulations also authorize assignment of an RE-4 reenlistment code when a service member is not recommended for reenlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants limited relief. Specifically, the Board finds that he does not meet the reenlistment prerequisites for assignment of an RE-1A reenlistment code, but finds that although he was convicted by a court-martial for use of cocaine, he was retained on active duty for more than nine months before he was released under honorable conditions and transferred to the Marine Corps Individual Ready Reserve where he is still subject to recall to active duty at any time. Therefore, the Board finds that he does not fully meet the requirements for assignment of an RE-4B reenlistment code, since he does have potential for further service. Furthermore, the Board finds that his drug-related court-martial conviction supports his non-recommendation for reenlistment. Therefore, the Board finds that the RE-4B reenlistment code should be changed to an RE-4.

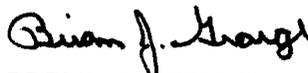
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was assigned an RE-4 reenlistment code on 30 October 2007, vice the RE-4B.

b. That this Report of Proceedings be filed in Petitioner's naval record so that all future reviewers will understand the reason for the change in his 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.

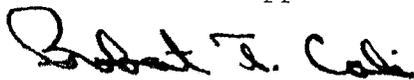
ROBERT D. ZSALMAN  
Recorder

  
BRIAN J. GEORGE  
Acting Recorder

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

  
W. DEAN PFEIFFER  
Executive Director

Reviewed and approved:

  
5-11-09