



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

BAN
Docket No: 1550-09
17 November 2009

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

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) HQMC MMER/RE memo dtd 6 Feb 09
(3) NAVMC 118(11) dtd 29 Aug and 21 Oct 97
(4) USMC Fitness Report for 1 Jan 97 to 13 Nov 97
(5) NAVMC 10213 Career Planning Contact Record dtd 7 Feb 97
(6) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that his reenlistment code be changed from RE-4(not recommended) to RE-1 (recommended).

2. The Board, consisting of Messers. [REDACTED] and [REDACTED], and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 12 November 2009. Pursuant to its regulations, the Board determined that partial 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 enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 9 January 1986. During his period of service he was never the subject of any disciplinary actions. However, he was counseled several times concerning his deficiencies, specifically, failure to conform to the Marine Corps weight standards and his inability to make satisfactory progress while assigned to a weight control program, (enclosures (3) and (5)). Therefore, on 13 November 1997, he was separated at the end of his obligated service with an honorable discharge and an RE-4 reenlistment code due to not being within height and weight standards.

d. In Petitioner's application, he notes that his military career was spotless with no disciplinary actions and that he completed a successful tour as a Marine Corps security guard and recruiter, (enclosure (4)). He additionally states that he is now in the hiring process with Southern California Edison for a position as their nuclear security officer but they do not accept any prior service members with RE-4 reenlistment codes. Furthermore in August 2008, he states that he submitted an application for reenlistment in the Army National Guard.

e. In an advisory opinion from Headquarters Marine Corps (HQMC), (enclosure (2)), it was determined that at the time of separation, Petitioner was assigned the RE-4 reenlistment code based on his failure to meet weight standards during his enlistment and therefore gave an unfavorable recommendation on his request.

f. Although an RE-4 reenlistment code may be assigned for failure to meet height and weight standards, an RE-3P may be assigned as well. The RE-3P code is waivable if the former service member now meets height and weight standards.

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding enclosure (2), the Board concludes that Petitioner is entitled to partial relief. The Board finds that although he was not within weight standards, his performance was outstanding and that an RE-4 reenlistment code was not appropriate. Finally, the Board believes that a change to his reenlistment code to RE-3P for failure to meet height and weight standards was authorized and is appropriate. In view of the foregoing, the Board finds the existence of an injustice warranting the following limited corrective action.

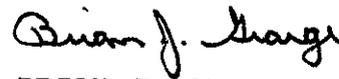
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an RE-3P reenlistment code on 13 November 1997, vice an RE-4 reenlistment code on the same day.

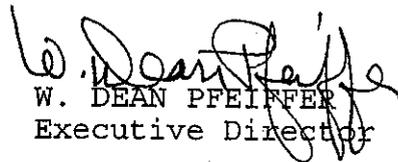
b. That no further relief is recommended.

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:

 12/02/09
Assistant General Counsel
(Manpower and Reserve Affairs)