



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

CRS
Docket No: 1601-09
8 September 2009

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy
Subj: FORMER [REDACTED]
OF NAVAL RECORD

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

Encl: (1) DD Form 149

1. Pursuant to the provisions of reference (a), Petitioner applied to this Board requesting his naval record be corrected by changing the reentry code he was assigned on 19 May 2005.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 August 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, 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 enlisted in the Navy on 19 April 2005. On 10 May 2005 he was diagnosed with chronic knee pain. On 19 May 2005, he received an uncharacterized entry level separation by reason of his failure to meet medical/physical procurement standards and was assigned a reentry code of RE-4.

c. Applicable directives require the assignment of an RE-4 reentry code when a Sailor is discharged for failing to meet medical/physical procurement standards. A Sailor who is found to be not physically qualified for enlistment may, in the alternative, be separated by reason of erroneous entry and assigned a reentry code of RE-3E or RE-4. At the time of Petitioner's discharge, a reentry code of RE-4 was required for a diagnosis of chronic knee pain.

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record, a majority of the Board, consisting of Mr. Morgan and Mr. Pfeiffer concludes Petitioner's request warrants favorable action. The majority notes that Petitioner states he has had no further problems with his knees. The majority believes that the reason for discharge should be changed to erroneous entry since Petitioner was unaware of the severity of his condition when he was accepted for enlistment. Accordingly, the majority recommends that Petitioner's reason for separation be changed to erroneous entry.

The majority also concludes that an RE-3E reentry code should be assigned since there is no evidence that Petitioner had any performance or disciplinary infractions during his period of service and his record does not otherwise support the more stigmatizing code of RE-4.

MAJORITY RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 19 May 2005 he received an entry level separation by reason of erroneous entry and was assigned a reentry code of RE-3E.
- b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

MINORITY CONCLUSION:

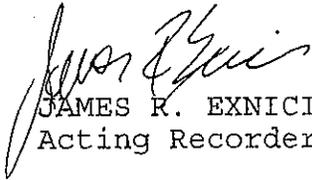
The minority member of the Board, Ms. Mann, disagrees with the majority. She believes that since there is no clear proof that Petitioner's knees are in good shape, he will fail again if given another opportunity.

MINORITY RECOMMENDATION:

That no relief be granted.

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.

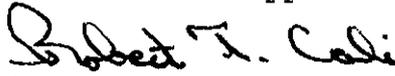
ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

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


W. DEAN PFEIFFER

MAJORITY REPORT:
Reviewed and approved:

 9/22/09

Robert T. Cali
Assistant General Counsel
(Manpower and Reserve Affairs)

~~MINORITY REPORT:~~
~~Reviewed and approved:~~