



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

REC

Docket No: 07759-09

11 March 2010

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) Case summary
(3) PERS-32 memo dtd 22Dec09
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, filed enclosure (1) with this Board requesting, in effect, that she be reinstated to pay grade E-5/PC2, her time in rate date be reflected on her last DD Form 214 and that she receive all backpay and allowances she would have received as an E-5.

2. The Board, consisting of Mr. [REDACTED] Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 March 2010 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, 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 did exhaust all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy Reserve on 6 June 2000, at the age of 18. She served honorably and reenlisted into the regular Navy on 3 November 2008 with an approved enlistment waiver from Commander, Naval Recruiting Command, to enter in the pay grade of E-3 and upon successful completion of her required training (Navy Counselor School NC) she would be advanced to pay grade E-5. However, during the course of training, a Career Development Board was conducted and after reviewing her progress, it was determined that Petitioner did not meet all requirements and was disenrolled from the training and provided the opportunity to reclassify into another program for which she was qualified and a vacancy existed or separate from the Navy. Petitioner elected to be discharged as she was near high year tenure and was discharged on 5 May 2009.

d. The Board requested an advisory opinion (enclosure (3)) in this case from the Bureau of Naval Personnel, which recommended that Petitioner's rate be restored to PC2 pay grade E-5 with an effective date of rate of 5 May 2009, which will retain her rank and pay of E-3 until completion of rate conversion training as contractually agreed to, but restore her to E-5 on the last day prior to discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the recommendation in enclosure (3), the Board concludes that Petitioner's request warrants limited favorable action. The Board notes her patriotism to her country and bases its recommendation on her loyalty, and desire to continue to serve her country. Since she agreed to complete "NC" training before being advanced to E-5, and she failed to complete the training, the Board concludes that no backpay or allowances are warranted in her case. Accordingly, the Board concludes that, as a matter of equity, relief in the form of restoring her pay grade to E-5/PC2 on her DD Form 214 is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following partial corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she was honorably discharged on 5 May 2009, in the pay grade of E-5/PC2, block 4b, and block 12h should reflect the date of pay grade of 4 May 2009.

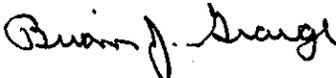
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

d. That no further relief is granted.

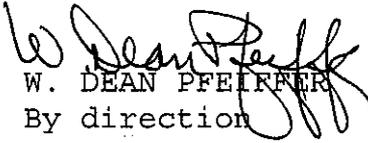
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings 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
By direction