



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

SJN
Docket No: 00973-10
4 November 2010

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting a change in his RE-4 (not recommended for retention) reentry code.

2. The Board, consisting of Mr. [REDACTED] Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 2 November 2010 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. Although 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 Navy and began a period of active duty on 21 June 2002. On 29 November 2003, he received nonjudicial punishment (NJP) for 31 days of unauthorized absence (UA). On 11 and 19 October 2005, he was medically evaluated and diagnosed with sleepwalking. On 26 October 2005, he submitted a request for separation due to the diagnosis. He stated, in part,

that his sleepwalking had existed while he was a child at the age of 12, and upon joining the Navy his condition resurfaced, persisted, and prevented him from completing his obligated service due to unsafe conditions in his work and living environment onboard ship. Subsequently, administrative discharge action was initiated by reason of convenience of the government due to the diagnosed sleepwalking condition. After being afforded all of his procedural rights, he was honorably discharged due to a condition, not a disability, on 23 January 2006. At that time, he was assigned an RE-4 reentry code, meaning he is not recommended for reenlistment. However, he could have been assigned a code of RE-3G meaning that he had a condition, not a disability.

d. With his application, Petitioner states that he wants to be reevaluated so that can reenter the service.

CONCLUSION:

Upon review and consideration of all the evidence of record, including his NJP, the Board concludes that Petitioner's request warrants favorable action.

In this regard, the Board therefore concludes that no useful purpose was served by assignment of the most restrictive reentry code of RE-4, and assignment of the RE-3G code more accurately reflects the quality of his service.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 23 January 2006 he was issued an RE-3G reentry code vice the RE-4 reentry code actually issued on that date.

b. That a copy of this report of proceedings be filed in Petitioner's naval record.

c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received on 28 January 2010.

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
Executive Director