



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

SJN
Docket No: 05010-10
24 March 2011

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) 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 that his RE-4 reentry code be changed.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 22 March 2011 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 31 October 2005. On 16 November 2005, he was diagnosed as having asthma. At that time he was recommended for an entry level separation due to an erroneous enlistment. Subsequently, he was notified of proposed action for an

administrative separation by reason of failed medical/physical procurement standards. On 22 November 2005, his commanding officer directed that he be separated with an entry level separation. At that time he was assigned an RE-4 reentry code.

He could have been processed for separation by reason of a condition that is not a disability but which interfered with the performance of duty, specifically, the diagnosed asthma. Had he been so processed, an RE-3G reentry code could have been assigned. However, an RE-4 reentry code is required when an individual is separated due to failed medical/physical procurement standards.

d. With his application, Petitioner submitted a report from a hospital respiratory therapy department dated 8 March 2010, stating that he did not have asthma, and that he wants to reenlist.

CONCLUSION:

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

Although Petitioner was properly processed for separation by reason of an erroneous enlistment and assigned an RE-4 reentry code, which means that he is not recommended for reenlistment, he could have been processed for a condition not a disability, and been assigned an RE-3G reentry code, meaning that he had a condition that interfered with his performance of duty. This reentry code may not prohibit reenlistment, but requires that a waiver be obtained from recruiting personnel who are responsible for reviewing the feasibility of satisfying the Navy's personnel manning goals by determining whether or not an individual meets the standards for reenlistment. If he wishes to reenlist, re-affiliate, or be reinstated in the Navy, he will need to contact the Navy Recruiting Command via his nearest recruiting facility. The Board therefore concludes that the record should be corrected to show the he was assigned an RE-3G reentry code as an exception to policy.

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 29 November 2005, the narrative reason for his discharge be changed to "condition, not a disability" vice "failed medical/physical procurement standards" now of record, a

separation code of "JFV" vice "JFW" now of record, and assigned an RE-3G reentry code vice the RE-4 now of record actually issued on that date.

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.

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.



BRIAN J. GEORGE
Acting Recorder

ROBERT D. ZSALMAN
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