



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

JRE
Docket No. 06461-10
18 April 2011

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

Subj: [REDACTED] REVIEW
OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was assigned a more favorable reentry code than RE-4, and that he be granted a waiver of physical disqualification from reenlistment.
2. The Board, consisting of Messrs. Garst, Gorenflo and McBride, reviewed Petitioner's allegations of error and injustice on 14 April 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. Enclosure (1) was filed in a timely manner.
 - c. Petitioner enlisted in the Navy on 10 August 2007. Shortly after he entered on active duty he disclosed a history of chronic low back pain with radiation to his lower extremities, which he described as "excruciating". He also disclosed that in 2003 he had

a "bulging disc" in his back which caused paralysis of both legs that required acupuncture to "get his legs to work again". Although he was ultimately "cleared" by his physician, the pain never resolved. On 21 September 2007 he was discharged by reason of erroneous entry due to his disqualifying back condition, and assigned a reentry code of RE-4.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that irrespective of the precise diagnostic nomenclature applied to Petitioner's back condition, he did not meet the minimum physical standards for enlistment due to his history of chronic back pain with referred pain in his lower extremities. Notwithstanding the foregoing, the Board concludes that it would be in the interest of justice to correct his record to show that he received a reentry code of RE-3E vice RE-4, which would facilitate his reentry if he is able to obtain a waiver of his disqualifying back condition.

As it is beyond the purview of the Board to grant a waiver of a physical disqualification from enlistment, it did not take any action on that portion of his request for correction of his record.

RECOMMENDATION:

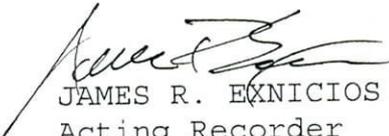
a. That Petitioner's naval record be corrected to show that he was assigned a reentry code of RE-3E on 21 September 2007.

b. That so much of Petitioner's request for correction of his naval record as exceeds the foregoing be denied.

c. That a copy of this Report of Proceedings be filed in 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.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
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 Regulations, 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