



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

BAN
Docket: 13298-10
19 April 2011

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

Subj: REVIEW OF NAVAL RECORD [REDACTED] FORMER LANCE CORPORAL PERLEY
[REDACTED], USMC, 303-04-3098

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

Encl: (1) DD Form 149 w/attachments
(2) Headquarters Marine Corps (HQMC) memo 1040 MMEA of
28 Mar 11
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show that he was entitled to separation pay at the time of separation from active duty service.

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and George reviewed Petitioner's allegations of error and injustice on 18 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. Petitioner was released from active duty on 1 July 2010, after serving 9 years, 6 months and 2 days of active duty service due to reaching his Enlisted Career Force Controls.

c. Petitioner received a general discharge and was assigned a reenlistment code of RE-1A. Under Marine Corps Order (MCO) 1040.31 he was eligible for half separation pay prior to his discharge from active duty service. However, a request for separation pay determination was never submitted to Headquarters Marine Corps.

d. In December 2010, Petitioner submitted an application with this Board seeking separation pay.

e. In correspondence attached as enclosure (2), the office having cognizance over USMC separation pay has commented to the effect that the request for separation pay has merit and warrants favorable action.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. Petitioner is entitled to half separation pay for his release from active duty on 1 July 2010, based on the years of active service actually completed.

b. Issue DD Form 215 to change block 26 to DD Form 214 to reflect "JGH3" vice "KBK1 and change block 28 to read "INVOL DIS - HIGH YEAR TENURE NON RETENTION ON ACTIVE DUTY" vice "COMPLETION OF REQUIRED ACTIVE SERVICE".

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 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


WILLIAM J. HESS, III
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.

19 April 2011

A handwritten signature in black ink, appearing to read "Robert J. Fisher". The signature is fluid and cursive, with a long horizontal stroke at the end.

For W. DEAN PFEIFFER
Executive Director