



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

DJC
Docket No. NR179-14
17 Jun 14

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy
Subj: [REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) HQMC memo 5420 MMEA dtd 1 Apr 14
(3) 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 the applicable naval record be corrected to show Petitioner was entitled to payment of Involuntary Separation Pay (ISP) when she was discharged.

2. The Board, consisting of Mr. Zsalman, Mr. George, and Mr. Ruskin, reviewed Petitioner's allegations of error and injustice on 16 June 2014 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. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request 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 partial corrective action:

a. The Petitioner was discharged on 31 March 2012 for Completion of Required Service (in-service illegal drug involvement and there is no potential for further service).

b. On 21 December 2010, Petitioner received non-judicial punishment, Article 112a; wrongfully use of controlled substance.

c. MCO 1040.31 dated 8 September 2010 states the following: "A Marine who satisfies the basic criteria and is denied further service will be evaluated for the level of separation pay based on the following checklist. A Marine must satisfy all the conditions (the yes block must be checked) in order to qualify for full separation pay. If, for any reason, a "no" block is checked, the maximum entitlement a Marine may receive is half separation pay."

d. MCO 1900.61 dated 26 November 2013 states the following: "A reentry code of RE-4B is assigned when there is a military or civil record of in-service illegal drug involvement and there is no potential for further service."

RECOMMENDATION:

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

a. The Certificate of Release or Discharge from Active duty (DD Form 214, Aug 2009), executed on or about 31 March 2012, is modified to read block 26 (Separation Code) "JGH2" vice "KBK1", and block 28 (Narrative reason for separation) "NON-RETENTION ON ACTIVE DUTY" vice "COMPLETION OF REQUIRED ACTIVE SERVICE".

b. Petitioner was authorized payment of "half" Involuntary Separation Pay (ISP) when she was discharged on 31 March 2012.

c. Note: the separation pay described above will be offset by any Veterans Disability Compensation to which Petitioner is or becomes entitled.

d. That part of the Petitioner's request for corrective action that exceeds the foregoing is denied.

e. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

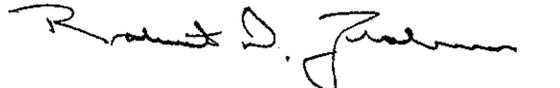
4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


BRONTE I. MONTGOMERY
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.

17 Jun 14


ROBERT D. ZSALMAN
Acting Executive Director