



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

BJG
Docket No: 2448-14
19 September 2014

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 6 Dec 13 w/attachments
(2) PERS-832 memo dtd 21 Aug 14

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected by changing his Certificate of Release or Discharge from Active Duty (DD Form 214) (copy at Tab A to enclosure (1)). Specifically, he requested that block 27 (Reentry Code) of "RE-4" (not recommended for retention) be changed to "RE-1" (recommended for retention). He further requested removal of two Navy Personnel (NAVPERS) 1070/613 "Administrative Remarks" forms, one dated 6 December 2010, and the other undated (copies at Tab A to enclosure (1)). Finally, he requested reinstatement on active duty effective 7 December 2010.

2. The Board, consisting of Messrs. Boyd and Tew and Ms. Henkel, reviewed allegations of error and injustice on 17 September 2014, and pursuant to its regulations, determined that the limited 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 which were available under existing law and regulations within the Department of the Navy.

b. Petitioner enlisted in the Navy and entered a period of active duty on 7 December 2005. He was referred to a general court-martial for an indecent assault of a minor child. The family of the alleged victim decided not to testify, so the charge was dismissed. However, he was referred for administrative separation due misconduct (commission of a serious offense). He elected to have his case decided by an administrative discharge board (ADB). The ADB found that he did not commit misconduct and recommended retention. He was allowed to complete his enlistment, and on 6 December 2010, he was honorably transferred to the Navy Reserve, and assigned a reentry code of RE-4. He received two NAVPERS 1070/613's stating to the effect that he was not to be reenlisted without the express permission of the Navy Personnel Command, Enlisted Performance and Separations Branch (PERS-832). On 23 September 2013, he was honorably discharged from the Navy Reserve.

c. Enclosure (2) is an advisory opinion from PERS-832. The advisory recommended partial relief by changing his RE-4 reentry code, and by implication, removing the two NAVPERS 1070/613's, because there is no documentation in his record to justify the assignment of an RE-4 reentry code.

d. Regarding Petitioner's request to be reinstated, he voluntarily left active duty and was transferred to the Navy Reserve on 6 December 2010.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (2), the Board finds the existence of an error and injustice warranting partial relief. The Board agrees with the advisory opinion that there is no evidence in his record to support the assignment of the RE-4 reentry code. Concerning his request to be reinstated, the Board particularly notes that he left active duty voluntarily. In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing block 27 (Reentry Code) of his DD Form 214 from "RE-4" to "RE-1".

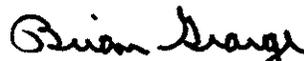
b. That Petitioner's record be further corrected by removing the two NAVPERS 1070/613, one of which is dated 6 December 2010, which refer to his non-recommendation for retention.

c. 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.

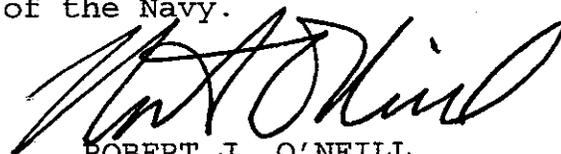
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

e. That no further relief be granted.

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
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.


ROBERT J. O'NEILL
Executive Director