



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2165-00

22 August 2000

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 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Lippolis and Ivins and Ms. LeBlanc reviewed Petitioner's allegations of error and injustice on 16 August 2000 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 it appears that Petitioner's application to the Board 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 Marine Corps on 27 November 1995 for four years at age 19.

d. The medical record reflects that in April 1996 Petitioner began treatment for a tibial stress fracture and knee pain. Treatment continued through 19 June 1996, when medical authorities concluded that prescribed medications and treatments had proven unsuccessful and recommended that Petitioner be separated.

e. On 11 July 1996 the commanding officer recommended that Petitioner be administratively separated with an honorable discharge by reason of convenience of the government due to a physical condition not a disability. On the same date, Petitioner was notified that discharge proceedings were being initiated by reason of convenience of the government due to a physical condition not a disability. He was advised of his procedural rights and declined to submit a statement in his own behalf or consult with counsel.

f. On 18 July 1996 the discharge authority directed an honorable discharge by reason of convenience of the government due to a physical condition which was not a disability. Petitioner was so discharged on 15 August 1996 and assigned an RE-4 reenlistment code.

g. An RE-4 reenlistment code means that the individual is not recommended for reenlistment. An RE-3P reenlistment code means the individual failed to meet physical/medical standards but is recommended for reenlistment except for the disqualifying factor. This code may be waived to allow reenlistment if the disqualifying factor which led to discharge no longer exists.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner served for more than eight months, had no disciplinary actions, and there is no evidence that his overall performance was less than satisfactory. The Board does not believe his period of service warranted the assignment of the most restrictive RE-4 reenlistment code or that he should be prevented from serving again if the disqualifying medical condition no longer exists. The Board concludes that it would be appropriate and proper to change his reenlistment code to RE-3P.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 15 August 1996, to RE-3P.

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 references being made a part of Petitioner's naval record.

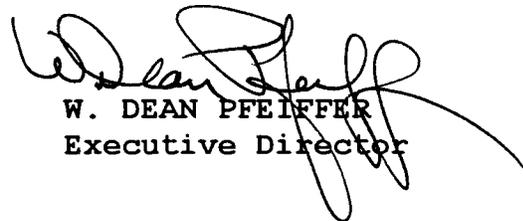
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
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
Executive Director