



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

ELP
Docket No. 2956-01
23 August 2001

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 Navy, applied to this Board requesting, in effect, changes in the reason for discharge and reenlistment code.

2. The Board, consisting of Messrs. Pfeiffer, Zsalmán, and Neuschäfer reviewed Petitioner's allegations of error and injustice on 22 August 2001 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 Navy on 18 November 1996 for four years. The medical record reflects that on 19 December 1996, she was referred to the recruit evaluation unit (REU) for multiple episodes of sleepwalking. During the REU interview, she reported a history of sleepwalking since age 10 and also said that her parents told her that she had sleepwalked on numerous occasions. A report from the recruit division commander and the ship's officer noted that Petitioner's episodes of sleepwalking had been documented by witness statements. She was diagnosed as having a sleepwalking disorder, and an entry level separation was recommended since this condition represented a continuing danger to herself if retained.

d. On 8 January 1997, Petitioner received an uncharacterized entry level separation by reason of erroneous entry and was assigned an RE-4 reenlistment code. The discharge processing documentation is not on file in the record.

e. The Board is aware that an individual can be separated due to an erroneous enlistment if there is a condition which, had it been known prior to enlistment, would have prevented enlistment. Sleepwalking is such a condition.

f. Regulations authorize the assignment of an RE-3E or RE-4 reenlistment code to individuals separated by reason of erroneous enlistment. An RE-3E reenlistment code means that the individual is eligible for reenlistment except for the disqualifying factor of sleepwalking. This code may be waived by recruiting officials if they can be convinced that the diagnosis was invalid or erroneous, or the condition no longer exists.

g. Petitioner states that she does not recall telling anyone in recruit training that she had walked in her sleep when she was younger, and she was falsely accused of doing so. She provides a statement from her parents who state that they never caught her sleepwalking.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. Absent medical evidence that the diagnosis of

Sleepwalking was erroneous, the Board concludes that the reason for separation was proper and no change is warranted. However, the Board believes assignment of the most restrictive RE-4 reenlistment code to be unduly harsh and she should not be prevented from further service if she can provide convincing evidence to recruiting officials that the condition no longer exists. In this regard, the Board notes that it appears Petitioner had no disciplinary actions or other problems in recruit training. The Board concludes that it would be appropriate and just to change the reenlistment code to RE-3E.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 8 January 1997, to RE-3E.

b. That no further relief be granted.

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 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.

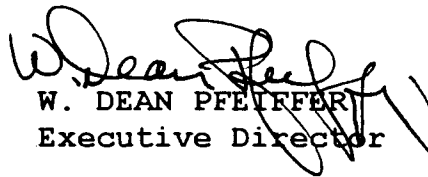
ROBERT D. ZSALMAN
Recorder



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