



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

JRE
Docket No: 4323-01
20 July 2001

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) 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 his naval record be corrected to show that he was assigned a reenlistment code of RE-3, vice the RE-4 code he received on 18 December 1998.

2. The Board, consisting of Mses. Davies and Schnittman and Dr. Schultz reviewed Petitioner's allegations of error and injustice on 21 June 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. Enclosure (1) was filed in a timely manner.

c. Petitioner served in the Navy on from 29 October to 18 December 1998, when he was discharged for failing to meet procurement medical standards because of recalcitrant retropatellar pain. He received a reenlistment code of RE-4, as required by governing directives.

d. SECNAVINST 1900.8 provides, in effect, that Sailors discharged for failing to meet procurement medical/physical standards will be assigned an RE-4 reenlistment code. Those discharged because of erroneous enlistment assigned a code of RE-4 or RE-3E, in the discretion of the commanding officer.

e. Petitioner contends that his knees have been rehabilitated, and he is now fit for military service. He submits statements from two physicians who report that his knee condition is no longer symptomatic, and that he should be reconsidered for military service.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner should have been discharged by reason of erroneous enlistment. As there is no evidence that he had any performance problems or disciplinary infractions during his period of service, it further concludes that the assignment of the stigmatizing reenlistment code of RE-4 is unwarranted.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 18 December 1998, he was discharged by reason of erroneous enlistment, and assigned a reenlistment code of RE-3E.

b. 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 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


JAMES R. EXNICIOS
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