



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No: 5048-01

30 November 2001

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 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 enlisted member of the Naval Reserve, applied to his Board this Board requesting that his reenlistment code be changed.

2. The Board, consisting of Messrs. Pfeiffer, Brezna, and Swarens reviewed Petitioner's allegations of error and injustice on 28 November 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 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 Naval Reserve on 12 August 1988 for eight years. He was ordered to active duty on 25 October 1988 for a period of 36 months.

d. The record reflects that was advanced to AOAN (E-3) and, despite a marginal performance evaluation, was recommended for advancement to AO3 (E-4) on 31 August 1990.

e. On 11 October 1990, Petitioner received nonjudicial punishment (NJP) for failure to obey a lawful order and

disrespect. Punishment imposed was a suspended reduction in rate to SA (E-2), a forfeiture of \$420, and 7 days of restriction and extra duty. Thereafter, Petitioner served without further incident and his performance improved slightly.

f. Incident to Petitioner's release from active duty he was not recommended for reenlistment. However, the record shows that he was still recommended for advancement. Petitioner was honorably released from active duty and transferred to the Naval Reserve on 9 October 1991.

g. Regulations authorize the assignment of an RE-3R or RE-4 reenlistment code to individuals who are released from active duty in pay grade E-3. An RE-3R reenlistment code means that an individual has failed to meet the professional growth criteria for reenlistment but is eligible in all other respects and recommended for advancement, and is eligible for a probationary reenlistment with the approval of Commander, Navy Personnel Command. An RE-4 reenlistment code means an individual is ineligible to reenlist without prior approval of Commander, Navy Personnel Command.

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 performance ranged from marginal to average and he had only one NJP in three years of service. Despite the NJP, the command's recommendation for advancement was not withdrawn, his performance improved and he served without further incident until his release from active duty. The Board finds it a strange that an individual is recommended for advancement but not recommended for retention. Therefore, the Board concludes that the entry "not recommended for reenlistment" was erroneous. The Board thus concludes that it would be appropriate and just to change his reenlistment code from RE-4 to RE-3R and remove the foregoing entry.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 9 October 1991, to RE-3R.

b. That Petitioner's record be further corrected by removing the entry "not recommended for reenlistment" from the enlisted performance record (page 9).


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.



For W. DEAN PFEIFFER
Executive Director