



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

TRG
Docket No: 5328-01
9 January 2002

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) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy filed an application with this Board requesting that his record be corrected to show that he was issued an honorable discharge and a better reenlistment code than the RE-4 reenlistment code now of record.

2. The Board, consisting of Mr. Rothlein, Mr. Kastner and Mr. Pfeiffer, reviewed Petitioner's allegations of error and injustice on 3 January 2002 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. Petitioner's application was filed in a timely manner.

c. Petitioner reenlisted in the Navy for two years on 8 May 1998, and subsequently, extended that enlistment for another year. The next two evaluations in the record, covering the period 16 March 1998 to 15 March 2000, are excellent with an individual trait average (ITA) of 4.29 in each evaluation. There are no further evaluations in the record. On 1 May 2001, he received nonjudicial punishment for larceny and wrongful appropriation. The punishment imposed included restriction, extra duty, forfeitures of pay, and a reduction in rate from EN2 (E-5) to EN3 (E-4). Subsequently, a recommendation for his advancement was canceled. On 7 May 2001 he was issued a general discharge by reason of "completion of required active service" At that time, he was not recommended for reenlistment and was assigned an RE-4

reenlistment code. At the time of his discharge, he had completed 12 years, 8 months and 13 days of active service.

d. Regulations require the type of discharge warranted by the service record when an individual is discharged due to completion of required active service, based on the ITA average of all the evaluations in the enlistment. At the time of Petitioner's discharge an ITA average of below 2.0 was required for the issuance of a general discharge. As indicated, the ITA of the two available evaluations is 4.29. Therefore, even if there was an ITA of 1.0 in the unavailable evaluation for the period ending 7 May 2001, his ITA average would still be above the minimum for an honorable characterization of service.

e. An individual serving in pay grade E-4 with over 12 years of active service exceeds the length of service limitations, and he must be denied further service.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Petitioner's characterization of service must be as warranted by his service record. Since his ITA average is sufficient to require the issuance of an honorable discharge, the Board concludes that the record should be corrected to show that on 7 May 2001 he was issued an honorable discharge, vice the general discharge now of record.

Concerning the reenlistment code, the Board notes that the last unavailable evaluation would have been adverse since he was not recommended for promotion and this means he probably was not recommended for retention. Further, he had exceeded the service limitations imposed on individuals serving in pay grade E-4. The Board thus concludes that the nonjudicial punishment and the last adverse performance evaluation were sufficient to support the assignment of an RE-4 reenlistment code, and a change in that code is not warranted.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 7 May 2001 he was issued an honorable discharge by reason of completion of required active service, vice the general discharge now of record.

b. That Petitioner's request for a change in the reenlistment code be denied.

c. That this Report of Proceedings be filed in Petitioner's

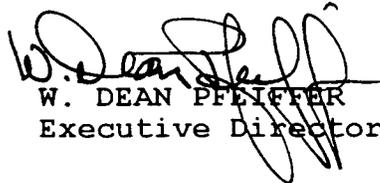
naval record.

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