



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

TRG
Docket No: 1861-02
5 November 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 a better reenlistment code than the RE-4 reenlistment code assigned on 12 November 2000.

2. The Board, consisting of Mr. Exnicios, Mr. Pfeiffer and Mr. Harrison, reviewed Petitioner's allegations of error and injustice on 29 October 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 three years on 13 November 1997 after about nine years of active duty on prior enlistments. The performance evaluation for the period 16 March 1999 to 15 March 2000 indicates that he passed the physical fitness test and was within the weight standards. Although he was assigned a marginal mark of 2.0 in the category of military bearing/character, he was recommended for promotion and retention in the Navy. The next performance evaluation, for the period 16 March 2000 to 12 November 2000, indicates that he passed the physical fitness test but was not within weight standards, and he was assigned a mark of 2.0 in military bearing/character. Even with that mark of 2.0 the individual trait average was an excellent 4.43. The evaluation comments state that Petitioner

did not meet body fat standards but he was recommended for early promotion and retention. Petitioner was voluntarily discharged at the expiration of his enlistment on 12 November 2000. At that time, he was assigned an RE-4 reenlistment code.

d. Attached to enclosure (1) is an advisory opinion from the Morale, Welfare, and Recreation Division (Pers 65B), Navy Personnel Command, essentially stating that assignment of the 2.0 marks in military bearing/character were not mandated or prohibited by regulations, and assignment of those marks was within the discretion of the reporting senior. The opinion defers to the favorable enlisted separation section (Pers 832) for comments on the reenlistment code issue. Pers 832 states that since he was assigned two 2.0 marks in the same trait, an RE-4 reenlistment code was properly assigned.

e. In connection with his rebuttal to the advisory opinion, Petitioner has submitted a letter from a retired captain, who was Chief of Staff, Submarine Group Nine, and the reporting senior for the performance evaluation for the period ending 12 November 2000. The captain states that the regulations had changed and he was unaware that the assignment of a 2.0 in military bearing was discretionary. He points out that Petitioner was an outstanding performer and that the evaluation also recommended him for retention in the Navy. He recommends that the mark of 2.0 be changed to a 3.0 for the sole purpose of allowing a change in the reenlistment code. He believes that the "Navy will be well served by taking this action."

f. Regulations allow for the assignment of an RE-3T or an RE-4 reenlistment code when an individual is not recommended for reenlistment because of obesity. An RE-3T reenlistment code means that an individual is recommended for reenlistment except for the disqualifying factor of the weight problem.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes Petitioner's excellent record, the comments of the reporting senior and the other circumstances of the case and believes that a change in the reenlistment code is warranted. However, the Board believes that a change in the performance evaluation solely for the purpose of allowing the assignment of a better reenlistment code is unnecessary because the Board has the authority to change the reenlistment code as an exception to the policy. Therefore, the Board concludes that the record should be corrected as an exception to policy to show that on 12 November 2000 Petitioner was assigned an RE-3T reenlistment code vice the RE-4 reenlistment code now of record. The RE-3T

code will alert recruiters that Petitioner must meet the weight standards before reenlistment is authorized.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reason for the change in the RE-4 reenlistment code.


RECOMMENDATION:

a. That Petitioner's naval record be corrected by issuing a DD Form 215 to show that on 12 November 2000 he was issued an RE-3T reenlistment code vice the RE-4 reenlistment code now of record.

b. That this Report of Proceedings be filed in Petitioner's naval record.

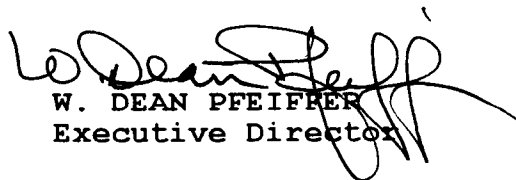
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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