



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

JRE
Docket No: 8684-01
8 February 2002

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 he be granted a reenlistment code more favorable than the RE-4 code he was assigned on 16 November 1995. He contends, in effect, that he was discharged because of a minor medical condition, which did not exist prior to his enlistment, and which he never had again.

2. The Board, consisting of Ms. Nofziger and Messrs. Chapman and Kim, reviewed Petitioner's allegations of error and injustice on 31 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. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 24 October 1995. He was discharged on 16 November 1995 by reason of his failure to meet medical procurement standards due to asthma. He was assigned a reenlistment code of RE-4, as required by governing directives.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board was not persuaded that Petitioner's discharge for failing to meet procurement medical standards was erroneous or unjust. In this connection, it notes that he was diagnosed as suffering from asthma, and he has not demonstrated that the diagnosis is erroneous. The Board noted, however, that there is a stigma attached to an RE-4 reenlistment code. It concluded that as there is no evidence that Petitioner committed any acts of misconduct during his enlistment, or performed his duties in an unsatisfactory manner, it would be in the interest of justice to assign him a reenlistment code of RE-3E, which would permit him to apply for reenlistment, and attempt to obtain a waiver of his physical disqualification.

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, as an exception to policy, that he was assigned a reenlistment code of RE-3E, vice the RE-4 code he was assigned on 16 November 1995.

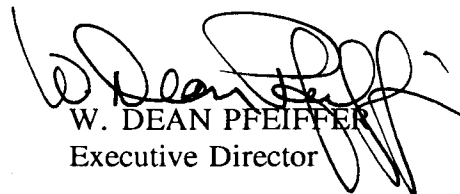
b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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