



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

TRG
Docket No: 9957-02
6 August 2003

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 in the Navy, filed an application with this Board requesting that his record be corrected, in effect, to show that his separation program designator (SPD) code was voluntary and not involuntary.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 July 2003 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 Navy on 19 December 1984 at age 20. He completed initial training and on 18 July 1985 reported to the USS COMTE DE GRASSE (DD 974). He then served in an outstanding manner on board that vessel for over three years. During this period, he was advanced to petty officer second class (RM2; E-5). In the performance evaluation for the period 28 June to 18 December 1988, he was assigned marks of 4.0 in every category and was strongly recommended for advancement and retention. It states in the evaluation comments that he was an "exceptionally competent and outstanding individual in all

respects." On 18 December 1988 he was awarded the Good Conduct Medal.

d. Also on 18 December 1988, Petitioner was released from active duty and transferred to the Naval Reserve to complete the remainder of his military obligation. The SPD code of "LBK" was assigned at that time, which means his separation was involuntary. The associated narrative reason is "USN released from active duty and transferred to the Naval Reserve." At that time, he was assigned an RE-R1 reenlistment code, which means that he was recommended for preferred reenlistment.

e. Petitioner affiliated with a reserve unit on 29 December 1988 and then served in an excellent manner for over three years. He was honorably discharged on 29 October 1992 at the end of his eight year military obligation.

f. Petitioner is now serving in the Alabama National Guard. With his application he has submitted a letter from the State Military Department that states that he is ineligible for the Active Guard Reserve Program because Army Regulations preclude assignment in that program to anyone with an involuntary SPD code. The letter recommends that he request a change to the voluntary code of "MBK".

g. The Navy instruction in effect at the time of Petitioner's discharge stated that an SPD code of LBK should be assigned when an individual was in the Regular Navy and was being involuntarily released from active duty and transferred to the Naval Reserve. The instruction does not contain an SPD code of MBK and no other voluntary SPD code fits the circumstances of Petitioner's situation. Why this situation occurred has been lost with the passage of time. The current regulation¹ allows for the assignment of an MBK code when there is a voluntary release or transfer to another service component.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. As indicated Petitioner has an excellent record, was awarded the Good Conduct Medal, and was recommended for preferred reenlistment. Further, he subsequently had three years of excellent service in the Naval Reserve. Given this record, the Board believes that Petitioner should not be barred from consideration for the active duty program and the record should be corrected to show an SPD code of MBK, as an exception to the policy in effect in 1988.

¹ BUPERSINST 1900.8 of 28 June 1993

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 SPD code.

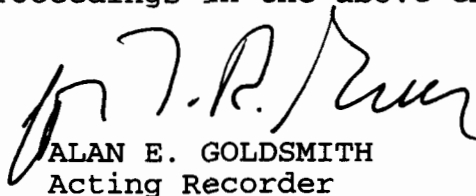
RECOMMENDATION:

a. That Petitioner's naval record be corrected by issuing a DD Form 215 to show that on 18 December 1988 he was assigned a Separation Program Designator of MBK vice the LBK code now of record.

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

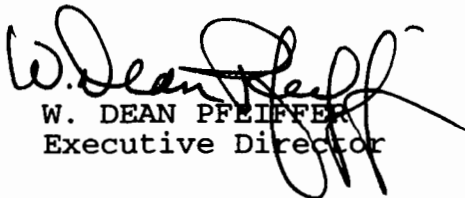
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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