



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

JRE
Docket No: 4585-01
10 January 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 his naval record be corrected to show that he was assigned a more favorable reenlistment code than the RE-4 code he received on 13 October 1998.
2. The Board, consisting of Messrs. Kastner and Rothlein and Ms. Schnittman 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. Enclosure (1) was filed in a timely manner.
 - c. Petitioner served in the Navy from 19 August to 13 October 1998, when he was discharged with an entry level separation for failing to meet procurement medical standards because of asthma. He received a reenlistment code of RE-4, as required by governing directives. He states that he does not have asthma, and submits pulmonary function test results indicate that he had mild restrictive lung disease, but do not substantiate an asthmatic condition
 - d. BUPERSINST 1900.8 provides, in effect, that Sailors other than officer candidates discharged for failing to meet procurement medical/physical standards will be assigned an

RE-4 reenlistment code. Those discharged because of Erroneous Entry (other) however, may be assigned a code of RE-4 or RE-3E, in the discretion of the commanding officer.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that as there is no evidence that Petitioner had any performance problems or disciplinary infractions during his period of service which would have warranted an RE-4 reenlistment code, the assignment of that code is unjust.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

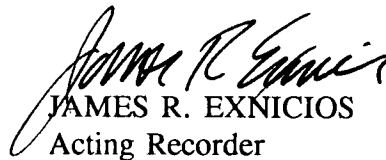
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 13 October 1998 he was assigned a reenlistment code of RE-3E, vice the RE-4 now of record.

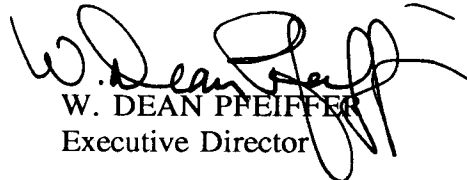
b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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