



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

WMP
Docket No. 0090-02
9 May 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Humberd, Rothlein, and Dunne reviewed Petitioner's allegations of error and injustice on 8 May 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. Although it appears that Petitioner's application to the Board 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 May 1993 for four years at age 19 in paygrade E-1. The record further reflects that he served without incident until his release from active duty on 9 January 1995.

d. On 14 December 1994, the Petitioner was advised that administrative separation action was being initiated by reason of hardship. Petitioner was advised of and waived all of his

procedural rights with the exception of obtaining copies of documents supported the proposed separation action. He did not object to this separation.

e. On 9 January 1995 Petitioner was honorably discharged by reason of hardship and assigned an RE-4 reenlistment code.

f. Regulations authorize the assignment of an RE-3H or RE-4 reenlistment code to individuals separated by reason of hardship. An RE-3H reenlistment code means an individual is ineligible to reenlist without a waiver of the disqualifying factor by Commander, Navy Recruiting Command. An RE-4 reenlistment code means an individual is ineligible for reenlistment and waivers will not be considered.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board concludes that Petitioner was correctly processed for administrative separation by reason of hardship. However, the Board believes that since Petitioner did not commit any misconduct and did not receive any adverse performance evaluations during his period of active service, assignment of the most restrictive reenlistment code is unjust. Accordingly, the record should be corrected to show that he received an RE-3H vice an RE-4 reenlistment code.

RECOMMENDATION:


a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 9 January 1995, to RE-3H.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

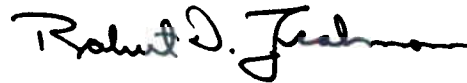
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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.



FOR W. DEAN PFEIFFER
Executive Director