



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

WMP  
Docket No. 0215-02  
15 Jul 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 Marine Corps, applied to this Board requesting, in effect, changes in the characterization of service and reenlistment code.

2. The Board, consisting of Messrs. Neuschafer, Cooper, and Dunne, reviewed Petitioner's allegations of error and injustice on 10 July 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 Marine Corps on 20 August 1995 at age 18. He served without incident until 19 December 1996, when he was convicted by special court-martial of an unauthorized absence from 30 September to 8 November 1996. Punishment imposed was a forfeiture of \$539, 30 days of confinement, and reduction in rank, from private first class (E-2) to private (E-1).

d. Petitioner's record further shows that after the court-martial conviction, he served without further incident and was promoted to lance corporal (E-3). On 19 August 1999, he was released from active duty and transferred to the Marine Corps Reserve. At that time, his service was characterized as having been under honorable conditions and not fully honorable. His record further reflects that upon completion of his present military obligation on 5 December 2002, he will receive a general discharge.

e. Characterization of service is based, in part, on conduct and proficiency averages computed from periodically assigned marks. In order to receive a fully honorable characterization of service, an individual must attain a minimum conduct average of 4.0 and a proficiency average of 3.0. Petitioner's proficiency and conduct averages were 4.2 and 3.7, respectively. However, his proficiency and conduct mark averages after his special court-martial conviction were 4.46 and 4.38, respectively.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board now finds the existence of an injustice warranting corrective action. The Board believes that, although Petitioner's service was properly characterized as under honorable conditions because his conduct mark average was below the minimum required for a fully honorable characterization, he maintained a clear record from the time of his one act of misconduct until his release from active duty in August 1999, a period of almost three years. He also was promoted twice during that period. Furthermore, the Board concluded that although his misconduct was serious enough to warrant a summary court-martial, he was not processed for separation, which indicates that his superiors believed that he had the potential to avoid misconduct and become a productive member of the Marine Corps. Fortunately, this is exactly what happened. Accordingly, the Board concludes that a fully honorable characterization of service is more appropriate than under honorable conditions. Since Petitioner has the potential to provide further service in the future, the Board believes that his reenlistment code should be changed to RE-1A.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was honorably released from active duty on 19 August 1999, vice the release under honorable conditions actually issued on that date.

b. That the record be further corrected to show that on 19 August 1999, Petitioner was issued an RE-1A reenlistment code, vice the RE-4 reenlistment code actually issued on that date.

c. 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.

d. 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.

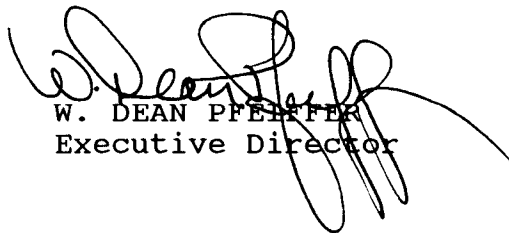
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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.



W. DEAN PFEFFER  
Executive Director