



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

JRE
Docket No: 1199-03
18 August 2003

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 her naval record be corrected to show that she was honorably discharged by reason of physical disability incurred while she was entitled to basic pay.

2. The Board, consisting of Mses. [REDACTED] and [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 August 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. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 20 March 2002. She complained of knee pain of two day's duration on 31 March 2002, which she attributed to a fall on her knees while marching. Her knees remained painful for the remainder of her period of active service, and ultimately she was given a diagnosis of chronic patellofemoral syndrome. She was separated from the Navy on 11 October 2002 with a general discharge, by reason of a condition, not a disability, interfering with her performance of duty. On 1 April 2003, the Department of Veterans Affairs (VA) denied Petitioner's request for service connection for patellofemoral syndrome, noting that pain, in and of itself, without objective medical evidence of underlying

disease of destructive process, is not a disability that warrants service connection.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board was not persuaded that Petitioner was unfit for duty by reason of physical disability at the time of her discharge. In this regard, it notes that her knee condition, although interfering with her ability to perform her duties, was not severe enough to render her unfit for duty. In addition, it concludes that in view of the early onset of the condition following her entry on active duty, and the minimal trauma she sustained, she would not have been entitled to disability benefits even if the condition had been classified as disabling, because it would have been considered developmental in nature, and not incurred or aggravated while she was entitled to basic pay. Accordingly, there is no basis for correcting Petitioner's record to show that she was separated or retired by reason of physical disability. The Board also concludes that as Petitioner did not receive any disqualifying evaluation marks during her brief period of service, and committed no acts of misconduct resulting in disciplinary action, she should have been separated from the Navy with an honorable discharge.

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 she was honorably discharged from the Navy on 11 October 2002.

b. That so much of Petitioner's request for correction of her naval record as exceeds the foregoing be denied.

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