



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

CRS
Docket No: 11076-08
21 January 2009

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner requests further consideration of his request for correction of his record to show that he received a more favorable reentry code than RE-4.

2. The Board, consisting of Messrs. [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 December 2008 and, pursuant to its regulations, a majority 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. Petitioner enlisted in the Navy on 14 December 2000. On 15 March 2001 he was diagnosed with spondylolysis, a disqualifying vertebral defect which existed prior to his enlistment. As he was not aware of the existence of that condition when he applied for enlistment, he was recommended for discharge by reason of erroneous enlistment. On 17 May 2001, Petitioner was honorably discharged by reason of erroneous enlistment, and assigned a reentry code of RE-4. On 28 April 2008, the Board denied Petitioner's initial request for correction of his reentry code.

c. Applicable directives authorize the assignment of a reentry code of RE-3E or RE-4 to a Sailor separated by reason of erroneous enlistment.

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record, a majority of the Board, consisting of Mr. Washington and Mr. Storz, concludes Petitioner's request warrants favorable action. In this regard, the majority finds that although the Petitioner's present reentry code was properly assigned, it is unjust since there is no evidence that he committed any acts of misconduct or disciplinary infractions during his period of service, and his record does not otherwise support the more stigmatizing code of RE-4.

MAJORITY RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 17 May 2001, he was assigned a reentry code of RE-3E.
- b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

MINORITY CONCLUSION:

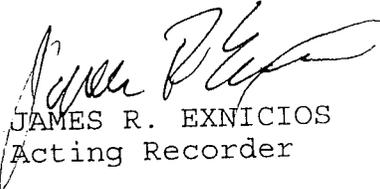
Mr. Dunn disagrees with the majority recommendation. He concludes that as Petitioner did not submit any new material evidence concerning the nature or severity of his condition in 2001, there is no basis for further consideration of his request for a more favorable reentry code.

MINORITY RECOMMENDATION:

That no relief be granted.

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.

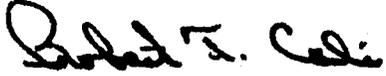
ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.


W. DEAN PFEIFFER

MAJORITY REPORT:
Reviewed and approved:


2-6-09

MINORITY REPORT:
Reviewed and approved: