



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL
Docket No: 5849-11
9 March 2012

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 with 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, filed enclosure (1) with this Board requesting a change of his narrative reason for separation, (Fraudulent Entry Into Military Service) and RE-4 (Not recommended for Reenlistment) reentry code. By implication, he requests a change of his separation code (JDA - Fraudulent Entry).

2. The Board, consisting of Mr. Clemmons, Ms. White-Olson and Mr. Lacroix, reviewed Petitioner's allegations of error and injustice on 7 March 2012 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 enclosure (1) 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 14 November 2007 at age 18. During his enlistment, he served without disciplinary incident. On the Report of Medical History and Report of Medical Examination, dated 17 August 2007, he declared he had anterior cruciate ligament (ACL) surgery on his right knee. Based on the information currently contained in his record it appears that he was subsequently involuntarily processed for an entry level separation by reason of fraudulent entry on 18 December 2007, due to failure to disclose his knee surgery.

d. In Petitioner's application, he states, in part, that his record should not reflect fraudulent entry because he told the recruiter about the ACL surgery and the recruiter told him that paperwork from his doctor indicated he was medically qualified for recruit training.

e. It appears that Petitioner should have been separated by reason of "Erroneous Entry" and assigned a waivable RE-3E reentry code.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board notes the errors reflected in the narrative reason for separation "Fraudulent Entry Into Military Service (Other)", separation code "JDA" and reentry of code "RE-4" (Not Recommended for Reenlistment), on his DD Form 214, and as such concludes that corrective action is warranted. Specifically, that his DD Form 214 should be corrected by changing the narrative reason for separation to "Erroneous Entry (Other)", separation code to "JFC" and reentry code to "RE-3E" (Inducted/Enlisted/Extended/Reenlisted in Error).

Based on the foregoing, and considering the fact that Petitioner has suffered the consequences of not having a DD Form 214 which reflects a correct characterization and reentry code, the Board concludes that these errors warrant relief.

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected as follows, and that he be issued a new DD Form 214:

- (1) Correct **block 26 Separation Code** to "JFC" vice "JDA".
- (2) Correct **block 27 Reentry Code** to "RE-3E" vice RE-4.
- (3) Correct **block 28 Narrative Reason for Separation** to "Erroneous Entry (Other)" vice "Fraudulent entry".

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 this 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. 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


BRIAN J. GEORGE
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 Regulation, 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