



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 200-99

21 May 1999

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
(2) Case Summary
(3) Subject's naval record

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

2. The Board, consisting of Messrs. Caron, Bishop, and Neuschafer, reviewed Petitioner's allegations of error and injustice on 19 May 1999, 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 was enlisted in the Navy on 10 April 1997 for four years at age 18. His record reflects that on 15 April 1997 he was notified that he was being considered for discharge by reason of defective enlistment and induction due to erroneous enlistment as evidenced by a pre-service civil record he disclosed during a "moment of truth" interview. The offenses

disclosed were shoplifting and assault and battery. Petitioner claimed that he told his recruiter of the 1991 juvenile offenses, but was told not to worry about it. Petitioner was advised of his procedural rights and waived those rights.

d. The discharge authority directed an uncharacterized entry level separation by reason of erroneous enlistment. Petitioner was so discharged on 21 April 1997 and assigned an RE-4 reenlistment code.

e. Petitioner claims that when he joined the North Dakota National Guard, no juvenile record was found.

f. Regulations authorize the assignment of an RE-3E or RE-4 reenlistment code to individuals discharged by reason of erroneous enlistment. An RE-3E reenlistment code means the individual was separated by reason of erroneous enlistment and is eligible for reenlistment except for the disqualifying factor which led to discharge. An RE-4 reenlistment code means an individual may not reenlist without prior approval of the Commander, Naval Personnel Command.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board notes Petitioner's apparently told his recruiter of the offenses which led to his discharge, since he was processed for separation by reason of erroneous enlistment and not fraudulent enlistment. The Board also notes that he apparently enlisted in the North Dakota National Guard after disclosing the offenses. The Board believes that if these juvenile offenses committed eight years ago are no longer disqualifying when properly disclosed to National Guard recruiting authorities, he should not have the most restrictive reenlistment code. Accordingly, the Board believes that it would appropriate and just to change the reenlistment code to RE-3E.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned 21 April 1997, to RE-3E.

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 references 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 PFEIFFER
Executive Director