



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 6707-97

15 April 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 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 United States Navy, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by changing the RE-4 reenlistment code assigned on 12 January 1996.

2. The Board, consisting of Ms. Taylor, Mr. Carlson, and Mr. McCulloch, reviewed Petitioner's allegations of error and injustice on 14 April 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 enlisted in the Navy on 28 December 1995 at age 18. At the time of enlistment he had completed 12 years of formal education.

d. On 3 January 1996, while still in recruit training, Petitioner was diagnosed as being dependent on marijuana. He was also diagnosed with an antisocial personality disorder. On 12 January 1996, Petitioner received a void enlistment by reason of erroneous enlistment based on drug abuse. At that time he received a reenlistment code of RE-4.

e. Title 10 U.S.C. 978 states, in part, that the enlistment of a person who is determined to be dependent on drugs or alcohol within 72 hours of enlistment shall be void.

f. Sailors diagnosed in recruit training with drug or alcohol dependency, or a personality disorder, may properly be separated with an entry level separation by reason of erroneous enlistment with a reenlistment code of RE-4.

**CONCLUSION:**

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board concludes that his void enlistment should be changed to an entry level separation by reason of erroneous enlistment due to drug abuse with an assigned RE-4 reenlistment code since Petitioner was not diagnosed as drug dependent within 72 hours of his entry on active duty. Absent a diagnosis within that time frame, a void enlistment was inappropriate and Petitioner should have been processed for an entry level separation due to erroneous enlistment. Accordingly, the Board recommends the reason for separation remain erroneous enlistment due to drug abuse. An RE-4 reenlistment code is appropriate in Petitioner's case since he was separated prior to completing recruit training by reason of erroneous enlistment due to drug abuse. Such a code is required under these circumstances.

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 he received an entry level separation by reason of erroneous enlistment on 12 January 1996 vice the void enlistment now of record.


b. That no further relief be granted.

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 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.

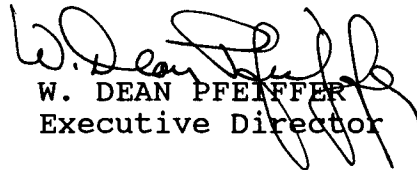
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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 PFEIFFER  
Executive Director