



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

TJR
Docket No: 155-01
22 June 2001

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

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

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

Encl: (1) Case summary
(2) 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 her narrative reason separation code be changed.

2. The Board, consisting of Mr. Leeman, Ms. McCormick, and Ms. Wiley, reviewed Petitioner's allegations of error and injustice on 12 June 2001 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. Petitioner's application to the Board was filed in a timely manner.

c. Petitioner enlisted in the Navy on 5 May 1998. During Petitioner's enlistment, she served without disciplinary infraction.

d. Subsequently, Petitioner elected to participate in the Montgomery GI Bill (MGIB) program. In this program, participants make periodic contributions into the MGIB fund and, after separation, are eligible for educational benefits.

e. Petitioner's record contains a Family Care Plan Certificate (NAVPERS 1740/6) which indicates that she was nondeployable due to noncompliance for child care.

f. On 7 January 2000, after 20 months of active duty, Petitioner was honorably released from active duty by reason of parenthood or custody of minor children, and was assigned a corresponding separation program designator (SPD) code of "KDG" which indicates that her separation was voluntary.

g. In accordance with applicable laws and regulations, Petitioner is not eligible for the MGIB benefits because she did not complete 30 months of active duty. Further, there is no provision in the law which would allow a refund of Petitioner's \$1,200 MGIB contribution. However, she would be eligible for pro-rata benefits under the MGIB based on her 20 months of active service, if her separation was involuntary. As previously noted, the SPD code of KDG denotes that her separation was voluntary. A change of her SPD code to "JDF" would indicate that she was involuntarily separated due to parenthood, and she would be eligible for MGIB benefits.

h. Petitioner contends that she was informed that her being a single parent and separated by reason of the convenience of the government was considered a hardship, and this would make her eligible for the MGIB.

CONCLUSION:

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

The Board's finding is based on Petitioner's overall satisfactory service and its belief that Petitioner may not have been completely aware of all the requirements of the MGIB.

The Board notes that, by law, Petitioner is not eligible to receive MGIB benefits, but believes that had she been fully aware of the guidelines regarding the MGIB, she may not have voluntarily separated from the Navy. The Board also believes that Petitioner may have been improperly advised regarding the requirements for eligibility for the MGIB. Further, it is clear to the Board that since she could not comply with the Navy's dependent care requirements, she would have been involuntarily separated if she had not elected to separate voluntarily. Based on the foregoing, the Board concludes that the appropriate relief is a change in Petitioner's SPD code from KDG to JDF so that she may obtain pro-rata MGIB benefits based on her 20 months of MGIB benefits.

In view of the foregoing, the majority finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 7 January 2000 she was assigned a SPD of JDF vice the SPD of KDG now of record.

b. That no further relief be granted.

c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

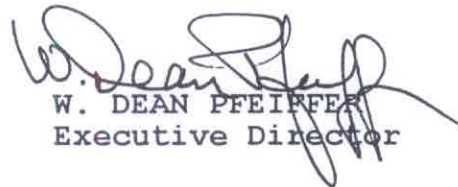
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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.

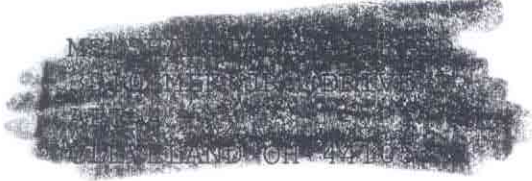


W. DEAN PFEIFFER
Executive Director



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TJR:jdh
Docket No. 00155-01
22 June 2001



Dear Ms. [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

The final decision in your case is set forth in the Board's report of proceedings, a copy of which is enclosed. The approved changes to your naval record will be made by the Commander, Navy Personnel Command (NPC), Code 312, 5720 Integrity Drive, Millington TN 38055-3120. Please wait at least 180 days from the date of this letter before contacting NPC about the status of your case.

With regard to that portion of your application that was denied you are entitled to reconsideration only upon the submission of new and material evidence or other matter not previously considered.

Sincerely,

ALAN E. GOLDSMITH
Head, Discharge Section

Enclosure

Copy to:
NPC