



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

ELP
Docket No. 1915-00
14 August 2000

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 Marine Corps, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Silberman and Vaughan and Ms. Hardbower reviewed Petitioner's allegations of error and injustice on 9 August 2000 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 Petitioner's application to the Board 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 Marine Corps on 29 December 1986 for four years at age 18. The record reflects that he was

advanced to LCPL (E-3) and served without incident for nearly 32 months. However, during the four month period from August to November 1989 he received two nonjudicial punishments (NJP) for two periods of unauthorized absence totalling about 32 days and breaking restriction, As a result of the second NJP he was reduced in rank to PFC (E-2).

d. Petitioner was again advanced to LCPL on 7 January 1990 and served without further incident until 2 May 1991 when he was honorably released from active duty and transferred to the Marine Corps Reserve and assigned an RE-4 reenlistment code. The basis for assignment of an RE-4 reenlistment is not set forth in the record. His conduct and proficiency averages at time of discharge were 4.2 and 4.3, respectively.

e. Regulations state that when an RE-4 reenlistment code is assigned a service record book entry is required stating the reason for assignment and the individual must sign the entry.

e. Petitioner provides a letter from a first lieutenant who states Petitioner was under his command during a deployment to Saudia Arabia and that his reenlistment code was changed from an RE-4 to RE-1. A letter from a former squad leader states the error was brought to the attention of the chain of command but never got corrected due to a massive number of separations at the time.

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 notes that after Petitioner received two NJPs, he went on to serve for 18 months without incident and was advanced again to LCPL. The Board also notes the record is silent as to basis for the assignment of an RE-4 reenlistment code and there is no evidence that Petitioner signed an record entry that he was being assigned an RE-4 reenlistment code. Additionally, given the letter from the lieutenant, it appears this reenlistment code may have been erroneously assigned. In any case, the Board believes assignment of an RE-4 reenlistment code was unduly harsh given his otherwise good record and concludes that it would be appropriate and just to change the reenlistment code from RE-4 to RE-1.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 2 May 1991, to RE-1.

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.


For W. DEAN PFEIFFER
Executive Director