



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

ELP
Docket No. 2427-01
20 August 2001

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

Subj: REVIEW OF NAVAL RECORD OF A [REDACTED]

Ref: (a) 10 U.S.C.1552
(b) Navy-Marine Corps Awards Manual

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Navy, applied to this Board requesting, in effect, that his naval record be corrected by removing an entry of 14 August 1992 from the Enlistment Performance Record (page 9) and showing that the eligibility date for the first Good Conduct Medal began on 22 March 1985.

2. The Board, consisting of Ms. Schnittman and Messrs. Mazza and Novello reviewed Petitioner's allegations of error and injustice on 15 August 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. 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's record reflects he enlisted in the Naval Reserve on 21 December 1982 for six years and served on active duty from 14 March 1983 to 10 February 1984 and from 19 February 1986 to 17 February 1988. He enlisted in the Navy on 18 February 1988 for six years as an AW2 (E-5).

d. Petitioner's record shows that he was awarded his first Good Conduct Medal on 19 February 1990, after completing four years of continuous active duty without any disciplinary infractions. He was awarded the Naval Achievement Medal on 16 May 1991.

e. Petitioner's page 9 shows he received nonjudicial punishment (NJP) on 14 August 1992. However, no such NJP is reflected on neither an Administrative Remarks (Page 13) entry nor a court memorandum (page 7), or on the enlisted performance evaluation covering the period from 1 April 1992 to 31 March 1993. In fact, this particular evaluation marks Petitioner a straight 4.0 in all rating categories and makes very favorable comments. An NJP must be recorded on a page 7 or 13, and is usually mentioned in the performance evaluation covering the period in which it is imposed.

f. The Navy Occupation/Training and Award History (page) of Petitioner's record shows he was awarded his second Good Conduct Medal on 19 February 1994. However, this entry was changed to read "960101."

g. Petitioner has served continuously on active duty since 19 February 1986; his last reenlistment was on 5 January 1998 for four years. His performance evaluations have been straight 4.0 from April 1991 to April 1995 when the evaluation marking system was changed. From April 1995 through November 1998, he has been consistently marked as "meeting standards" to "exceeding standards." He was authorized to wear the Military Outstanding Volunteer Service Medal on 30 January 1998 and was advanced to AW1 (E-6) on 16 December 1998.

h. The eligibility requirement for the Good Conduct Medal established in reference (b) is any four year period of continuous active enlisted service in the Regular Navy or Naval Reserve. Within the required period of active service, the individual must have a clear record: no convictions by courts-martial, no NJPs, no sick-misconduct, and no civil convictions.

If the record contains an NJP, a new four year period begins the day following the date of the disciplinary action.

i. Petitioner states the eligibility date for his first Good Conduct Medal does not account for his active duty period from 14 March 1983 to 10 February 1984. He further states that an NJP hearing was held on 14 August 1992, but no punishment was awarded. He notes that this contention is supported by the fact that neither a page 13 nor a special evaluation was issued to document the NJP.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board notes that other than the page 9 entry of 14 August 1992, there is no documentation of an NJP on that date in his record. Further, if NJP was in fact imposed it should have been documented on a page 7 or 13, and most likely would have been mentioned in the next performance evaluation. Since no such entries were made, and the ensuing evaluation did not mention an NJP, the Board believes the page 9 entry is erroneous. Accordingly, the Board concludes that it would be appropriate and just to remove the page 9 entry from Petitioner's record.

With the removal of the page 9 entry, an earlier eligibility date may be established for subsequent awards of the Good Conduct Medal. However, since Petitioner's period of active service from 14 March 1983 to 10 February 1984 was followed by a period of inactive service, this period of service cannot be used to establish an earlier eligibility date for his first Good Conduct Medal.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the 14 August 1992 page 9 entry from the record.

b. That Petitioner's page 4 be corrected to show that the second Good Conduct Medal was awarded on 19 February 1990, and the date of award of subsequent medals be amended as appropriate.


c. That no further relief be granted.

d. 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.

e. 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.

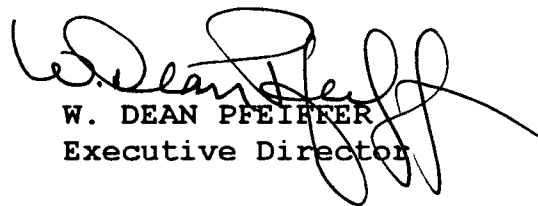
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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