



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

TRG
Docket No: 4149-01
1 November 2001

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 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 Navy filed enclosure (1) with this Board requesting that his record be corrected to show a better reenlistment code than the RE-4 reenlistment code assigned on 15 December 1998.

2. The Board, consisting of Mr. Brezna, Mr. Mackey and Ms. Schnittman, reviewed Petitioner's allegations of error and injustice on 24 October 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. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 14 August 1992 for six years and subsequently extended that enlistment for 12 months. He had three years of prior active service in the Naval Reserve.

d. On 22 March 1993 Petitioner was counseled concerning his failure to meet physical readiness test (PRT) standards because he exceeded the weight standards. His body fat was indicated to be 24%. There are no performance evaluations in the record after 26 June 1995. On 19 November 1996 he received nonjudicial punishment for forgery of the commanding officer's signature with

intent to defraud. The details of this offense are unknown. However, the punishment imposed was only an oral reprimand.

e. During 1998, Petitioner was counseled on three occasions concerning his weight problem and resulting PRT failures. His body fat was indicated to be 25%, 28% and 30%, respectively. On 13 November 1998 he was notified of separation processing due to his failure to achieve prescribed physical readiness standards, and misconduct due to commission of a serious offense as evidenced by the NJP of 19 November 1996. In connection with this processing, he elected to waive his right to have his case heard by an administrative discharge board. In his letter directing discharge, the commanding officer stated, in part, as follows:

(Petitioner) has been struggling with his weight since October 1997. According to his Risk Factor Screening folder, (he) has had weight problems dating back to July 1992. He (has) been given every opportunity to get within the Navy's height/weight standards and has been unsuccessful. Although, (he) was awarded nonjudicial punishment for misconduct due to commission of a serious offense, the primary reason for administrative separation processing is due to weight control failure. I do not believe an Other Than Honorable discharge is warranted in this case.

Petitioner was honorably discharged on 15 December 1998 by reason of weight control failure. He was not recommended for reenlistment and was assigned an RE-4 reenlistment code.

f. Petitioner has submitted evidence showing that he is now a member of the Alabama National Guard and is serving in an excellent manner. He desires a change in the reenlistment code so that he can enlist in the Regular Army. He has informed the examiner that he does not have copies of his performance evaluations.

g. The Board is aware that regulations allow for the assignment of an RE-3T or an RE-4 reenlistment code when an individual is discharged due to weight control failure. An RE-3T reenlistment code means an individual is recommended for reenlistment except of the disqualifying factor of his excess weight.

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 there are no details of the forgery offense for which he received NJP on 19 November 1996. However, he received minimal punishment and was not processed for discharge at that time, and the misconduct was only used when there was another reason for discharge. Further, the commanding officer stated that the primary reason for separation was weight control failure. Although Petitioner's performance evaluations are not available after June 1995 it appears that he was serving in a satisfactory manner. The Board also notes his subsequent excellent service in the National Guard and his desire to enlist in the Regular Army. Given the circumstances, the Board concludes that no useful purpose is now served by the RE-4 reenlistment code issued on 15 December 1998, and it should be changed to the less restrictive RE-3T reenlistment code. This code will alert recruiters that there is a problem which must be resolved before enlistment can be authorized.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reason for the change in the reenlistment code.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by issuing a DD Form 215 to show that on 15 December 1998 he was assigned an RE-3T reenlistment code vice the RE-4 reenlistment code now of record.

b. That 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.



For W. DEAN PFEIFFER
Executive Director