



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

JRE
Docket No: 6837-01
10 October 2001

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was assigned a reenlistment code more favorable than the code of RE-4 he received on 23 June 2000.

2. The Board, consisting of Messrs. Zsalmán, Shy and Goldsmith, reviewed Petitioner's allegations of error and injustice on 27 September 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 served in the Navy 28 December 1999 to 23 June 2000, when he was discharged by reason of "Condition Not A Disability", because of a knee condition which interfered with his performance of duty. Evidence submitted by Petitioner indicates that the condition, which may have been misdiagnosed by Navy physicians, has been corrected surgically.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially since the condition which interfered with Petitioner's performance of duty has been corrected, the Board concludes that it would be in the interest of justice to correct his record to show that he was issued a reenlistment code of RE-3G. Although that action will not obviate the necessity that he obtain a waiver of his the underlying basis for his discharge in order to reenlist, the likelihood of his being permitted to reenlist will be greatly enhanced as compared to what it would be with a code of RE-4. In addition, it removes what may be considered an unfair stigma, given the absence of any record of misconduct or poor performance in his naval record.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 23 June 2000, he was assigned a reenlistment code of RE-3G.1


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

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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


JAMES R. EXNICIOS
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