



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

ELP
Docket No.7026-00
16 March 2001

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

2. The Board, consisting of Messrs. Lippolis, Chapman, and Novello reviewed Petitioner's allegations of error and injustice on 14 March 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 enlisted in the Navy on 7 October 1977 for four years at age 19. The record reflects that he was advanced to HT3 (E-4) and served without any disciplinary actions.

d. On 1 July 1980, Petitioner requested a humanitarian (HUM) assignment due to his wife's abuse and neglect of their daughter. Documentation submitted in support of his request indicated that his wife had broken their daughter's arm when she was only four months old. Petitioner expressed a desire to complete his enlistment, but would accept a hardship discharge.

e. On 31 July 1980, the Chief of Naval Personnel (CHNAVPERS) denied Petitioner's request for a HUMs reassignment but authorized discharge by reason of a demonstrated dependency or hardship, even though Petitioner's dependency or hardship did not meet the criteria established in applicable regulations. CHNAVPERS directed release from active duty with the type of separation warranted by the service and assignment of an RE-3D or RE-4 reenlistment code.

f. On 8 August 1980, Petitioner was honorably released from active duty, transferred to the Naval Reserve, and assigned an RE-4 reenlistment code.

g. Regulations authorized the assignment of an RE-3D or RE-4 reenlistment code to individuals separated by reason of "demonstrated dependency/hardship not meeting the criteria specified in the Bureau of Naval Personnel Manual." An RE-3D reenlistment code means Petitioner was discharged for this reason. This code may be waived by recruiting officials if the disqualifying factor no longer exists. An RE-4 reenlistment code means that an individual is not eligible for reenlistment without the prior approval of Commander, Navy Personnel Command.

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 Petitioner was advanced to HT3 and had no disciplinary actions during his period of service. The Board does not believe that his service warranted the assignment of the most restrictive RE-4 reenlistment code and he should not be denied an opportunity to serve his country again at some future date if the disqualifying

factor no longer exists. Accordingly, the Board concludes that it would be appropriate and just to change his reenlistment code to RE-3D to correspond with the reason for which he was separated.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 8 August 1980, to RE-3D.

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.

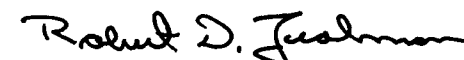
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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