



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

TRG
Docket No: 8227-00
24 May 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
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States 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 13 January 1995.

2. The Board, consisting of Mr. McPartlin, Ms. Hare and Ms. LeBlanc, reviewed Petitioner's allegations of error and injustice on 15 May 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 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 14 January 1991 for four years at age 20. The record shows that she satisfactorily completed initial training and was advanced to HM3 (E-4). She then served in an satisfactory manner for several years. The enlisted performance record (page 9) shows that in the evaluation for the period 1 July 1993 to 9 November 1993, she was assigned a marginal mark of 3.2 in personal behavior and was not recommended for advancement. The related counseling entry states, in part, as follows:

... (she) has been formally counseled on five occasions for indebtedness, poor work performance, and failure to complete assigned tasks ...

d. On 21 March 1994 Petitioner was counseled and warned following unspecified violations of Articles 109 and 134 of the Uniform Code of Military Justice. However, the page 9 shows that in the performance evaluation for the period 10 November 1993 to 30 June 1994, she was assigned marks of 3.6 in every category. On 19 September 1994 she received nonjudicial punishment (NJP) for failure to go to her appointed place of duty at the main side bowling alley. The punishment imposed included a reduction in rate from HM3 to HN (E-3), forfeitures of pay and extra duty. The forfeitures and extra duty were suspended for six months.

e. There are no further evaluations in the record, however, the page 9 shows that there was a letter to extend the ending date of the last evaluation from 30 June 1994 to 13 January 1995. Petitioner was released from active duty on 13 January 1995 with her service characterized as honorable. The page 9 indicates that her final performance average was 3.7, but it does not indicate whether or not she was recommended for reenlistment. An RE-4 reenlistment code was entered on the DD Form 214.

g. Petitioner contends that the RE-4 reenlistment code was erroneously assigned because her performance was satisfactory, and except for the NJP, she was an excellent Sailor. She desires a change in the reenlistment code so that she will be eligible for commissioning in the Navy when she completes her education.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes the two counseling entries and the NJP she received on 19 September 1994. However, the Board also notes that the NJP was for a relatively minor offenses and the extension of the earlier overall 3.6 evaluation means that evaluation was still in effect on her release from active duty on 13 January 1995. The Board believes that any individual with 3.6 evaluations would be and should be recommended for advancement and reenlistment. Since there is no other indication of a specific recommendation on Petitioner's reenlistment eligibility, the Board concludes that the 3.6 evaluation should be controlling and her reenlistment code should be changed to RE-1.

Given the fact that she received NJP and the absence of any reenlistment recommendation in the record, 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 RE-4 reenlistment code.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by issuing a DD Form 215 to show that on 13 January 1995 she was assigned an RE-1 reenlistment code vice the RE-4 reenlistment code now of record.

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

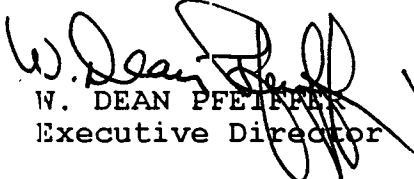
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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.



W. DEAN PFEIFFER
Executive Director