



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

WMP
Docket No. 08335-01
18 April 2002

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) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, applied to this Board requesting, in effect, changes in his reason for separation and reenlistment code.

2. The Board, consisting of Messrs. Taylor, Kim, and Agresti reviewed Petitioner's allegations of error and injustice on 17 April 2002 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. Petitioner's application to the Board was filed in a timely manner.

c. Petitioner enlisted in the Navy on 23 February 1995 at age 26 in pay grade E-3. While in recruit training, he submitted an application to attend Aviation Officer's Candidate School (AOCS), which was disapproved.

d. Petitioner received a psychological assessment on 25 July 1995 in which he reported symptoms of subjective depression, mild concentration difficulties, appetite disturbance (with no reported weight loss), and mild sleep disturbance. The psychologist noted these symptoms were related to Petitioner's

status as a former civilian professional who enlisted in the Navy with a promise that he could be commissioned as an officer in the flight training program. His commissioning package was recently denied, which precipitated the onset of psychological symptoms. The psychologist concluded that although Petitioner did not have a personality disorder or other psychiatric impairment, he should be separated from the naval service at the convenience of the government.

e. On 26 July 1995 Petitioner requested immediate separation for personal, professional, and financial reasons. This request was disapproved by the commanding officer with the comment, "You have an obligation, which you volunteered to serve".

f. On 15 August 1995, Petitioner was referred by the command chaplain for another psychological evaluation due to "stress". During the assessment, he indicated increased psychological distress including gastro-intestinal complaints, headache, insomnia, increased irritability resulting in arguments with shipmates and his wife; and subjective feelings of "depression" and feeling "degraded and humiliated" by enlisted life. The psychologist noted a sense of entitlement and grandiosity in that Petitioner was adamant in his belief that his education and ability level warranted more than his present status as an enlisted sailor. He stated, "I went to college to not have to sweep floors and clean toilets".

g. Also during this assessment, prominent obsessive-compulsive personality characteristics were noted. These characteristics included preoccupation with rules, details, and organization to the point where sight of the overall goal were lost; and written notes on most conversations. Although Petitioner did not specifically mention suicidal ideation, he indicated that he would do "whatever it takes" in order to "get my life back in order". He was found fit but was considered psychologically unsuitable for continued military service due to a severe obsessive-compulsive personality disorder, with prominent narcissistic traits. He was strongly recommended for administrative separation. Furthermore, although Petitioner did not seriously intend to kill himself, he was deemed to be sufficiently intelligent and calculating to attempt self-harm in a non-lethal manner if he felt his goals were not being met.

h. On 16 August 1995, in a letter to the commanding officer, the attending psychologist indicated that, "expeditious administrative separation is strongly recommended at the convenience of the government by reason of severe personality disorder. Retention of active duty carries with it the omnipresent risk of suicide."

i. Subsequently, on 22 August 1995, Petitioner was notified of pending separation action by reason of the diagnosed personality disorder. At this same time he waived his rights to consult with legal counsel and to submit a rebuttal to the separation action. The discharge authority directed that he be issued an uncharacterized entry level separation by reason of personality disorder. On 25 September 1995 he was so separated and assigned an RE-4 reenlistment code.

j. The Board initially considered and denied Petitioner's request for change in his reenlistment code and reason for separation.

k. On 20 August 1999, Petitioner received a psychological evaluation for prospective employment with the Alabama Game and Fish Commission. During this evaluation, he was found to have "no indications whatsoever of emotional instability". Further, the conclusions were that he was functioning within the high average to superior range of psychometric intelligence, and that there were no negative personality or character traits.

l. In November 2001, Petitioner requested that the Board reconsider his case. In support of that request, he submitted the 1999 psychological assessment. He also submitted evidence that since his separation, he has held responsible civilian positions and has been active in the Alabama Air National Guard (ANG) and Civil Air Patrol (CAP). He has submitted statements in support of his application from the executive officer of his ANG unit, an assistant professor (Air Force major) with the local reserve officer training corps (ROTC) detachment, and an Air Force major general. Petitioner and the ROTC professor state that unless the reenlistment and separation codes are changed, he cannot participate in the ROTC program or be commissioned. The professor also states that Petitioner has been "totally forthcoming" about his discharge, and wants to have the "black mark" removed from his record.

m. The Board received an advisory opinion (AO) from the Mental Health Services, Naval Medical Center, San Diego, CA, which recommends that Petitioner's request be denied because the record supports the in-service diagnosis of personality disorder. The AO notes, in part, as follows:

From review of the servicemember's record in 1995, it is clear that while in the Navy, he exhibited inflexible, rigid, and grandiose personality characteristics (essentially a mixed obsessive-compulsive and narcissistic personality disorder) that ultimately made him unsuitable for further military service.

Because the recent psychological evaluation in 1999 by Dr. Goff did not find Petitioner to have a personality disorder ...Petitioner seems to argue that the personality diagnosis given to him while in the Navy was incorrect. Personality disorders, though defined by DSM-IV as "enduring subjective experiences and behavior that deviate from cultural standards, are rigidly pervasive, have an onset in adolescence or early adulthood, are stable through time, and lead to unhappiness and impairment," have been found to be mutable in longitudinal studies.

However, in 1995, while in the navy, Petitioner's records do support the in-service diagnosis of personality disorder for the reasons noted above.

n. On 5 April 2002, Mr. Kevin Lapour, the clinical psychologist who conducted both psychological assessments in 1995, provided a statement that reads, in part, as follows:

.... Petitioner was engaging and personable, and presented his case to me in a logical, straightforward fashion. His demeanor raised the question in my mind whether the diagnosis given in 1995 is accurate or justified for Petitioner in 2002.

o. An individual may be discharged for best interest of the service (BIOTS), or Secretarial authority, in accordance with the plenary authority of the Secretary of the Navy if discharge is appropriate but none of the established reasons for separation fit the circumstances of the case. A servicemember separated for this reason receives an honorable or general discharge, or an entry level separation. Such an individual may receive either an RE-1 or an RE-4 reenlistment code.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

After reviewing the relevant evidence of record, the Board believes that Petitioner's enlisted thinking that he would become a flight officer, either from bad advice or recruiter misrepresentation. When he was disapproved for AOCs, he had problems dealing with this rejection. His two psychological assessments, the last of which resulted in separation, resulted from his inability to handle the reality that he was not going to become a flight officer. Additionally, the Board concluded that there was no evidence to support the statement

"omni-present risk of suicide", since there was no prior history of suicidal ideation, gestures, or attempts. The Board also notes separation was based on the psychologist's perception that the Petitioner was a "danger to himself or others". Although it is clear that Petitioner wanted to be separated and would have done "whatever it takes" in order to "get my life back in order," the Board does not believe these comments indicate any sort of suicidal ideation.

The 20 August 1999 psychological evaluation clearly indicates that there were "no indications whatsoever for any sort of emotional instability", Petitioner was "functioning within the high average to superior range of psychometric intelligence" and that there were "no indications for negative personality or character traits". Additionally, the clinical psychologist who diagnosed Petitioner with a personality disorder now questions his own diagnosis. Accordingly, the Board questions the validity of this original diagnosis.

The Board is also aware that since his discharge, Petitioner has been a responsible member of society, holding down several civilian positions. His service with the CAP and ANG indicates that he may well be capable of performing useful service on active duty.

Taking all of the foregoing into consideration, the Board has an abiding doubt as to whether Petitioner was properly diagnosed with a personality disorder in 1995. Additionally, it appears that Air Force authorities are aware that he had problems while in the Navy, but nevertheless want him in the ROTC program. Accordingly, the Board believes that no useful purpose is served by the current reason for separation and reenlistment code, and they should be changed consistent with the desires of the Petitioner and the Air Force.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that On 25 September 1995 he was discharged by reason of "secretarial authority" with an RE-1 reenlistment code vice by reason of "personality disorder" with an RE-4 reenlistment code. This should include the issuance of a new DD Form 214.

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 reference being made a part of Petitioner's naval record.

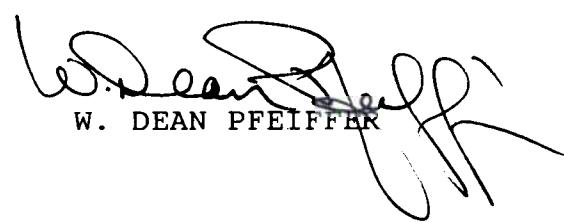
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



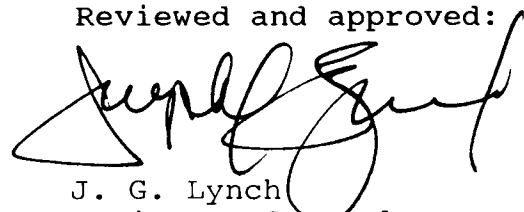
ALAN E. GOLDSMITH
Acting Recorder

5. The foregoing is submitted for your review and action.



W. DEAN PFEIFFER

Reviewed and approved:



J. G. Lynch
Assistant General Counsel (Manpower and Reserve Affairs)

MAY 8 2002