WMP
Docket No. 08458-01
5 April 2002

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

Subj:   REVIEW OF NAVAL RECORD OF ████████████████████████
        ████████████████

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

2.   The Board, consisting of Mses. Gilbert and LeBlanc, and Mr.
Neuschafer, reviewed Petitioner's allegations of error and
injustice on 3 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.   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 waiver the statute of limitations and review the
application on its merits.

     c.   Petitioner enlisted in the Navy on 27 December 1983
for four years at age 18.  The record further reflects that he
reenlisted for four and five years on 15 May 1989 and 16 November
1992 respectively.

     d.   The record further shows that Petitioner failed to
successfully complete the annual physical readiness tests (PRT)
conducted on 22 November 1994 and 24 April 1995.  Additionally,

the record shows that Petitioner received a NAVPERS 1070/613 (page 13) administrative remarks warning concerning his failure to meet the Navy's physical fitness standards.

e. An evaluation report for the period 16 March 1996 to 15 August 1996 showed Petitioner was assigned a mark of 1.0 in military bearing/character. The reporting senior stated that Petitioner failed to meet physical readiness standards and that he was assigned to a weight management program, but had shown no improvement in body fat standards. However, all other marks were satisfactory or better.

f. Petitioner received an adverse evaluation report for 18 September 1996 to 15 March 1997 and was assigned a mark of 1.0 in military bearing/character. The report stated that this mark was due to his not meeting bodyfat standards. Once again, however, the other marks were average or above average. Additionally, on 26 February 1997, Petitioner failed his third PRT due to failure to meet bodyfat standards.

g. Petitioner was then advised that administrative separation action was being initiated by reasons of weight control failure as evidence by his failure of three PRT's within a four year period. Petitioner was advised of and waived all procedural rights with the exception of obtaining copies of documents forwarded that support the proposed separation action.

h. Petitioner received an adverse evaluation report for the period of 16 March 1997 to 15 August 1997 and was assigned a mark of 1.0 in military bearing/character. The report stated that this mark was due to member not meeting bodyfat standards for third consecutive time. All other marks were at least satisfactory.

i. On 15 August 1997 Petitioner was honorably discharged by reason of weight control failure and assigned an RE-4 reenlistment code.

j. Regulations authorize the assignment of an RE-3T or RE-4 reenlistment code to individuals separated by reason of weight control failure. An RE-3T reenlistment code means an individual is ineligible to reenlist without a waiver of the disqualifying factor by Commander, Navy Recruiting Command. An RE-4 reenlistment code means an individual is ineligible for reenlistment and waivers will not be considered.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board concluded that Petitioner was correctly processed for administrative separation by reason of weight control failure. However, the Board believes that since Petitioner's performance marks were average to above average in

all evaluation categories except for military bearing/character, and these adverse marks were based solely on his weight control problem, assignment of the most restrictive reenlistment code is unjust. Accordingly, the record should be corrected to show that he received an RE-3T vice an RE-4 reenlistment code.


RECOMMENDATION:

a. That Petitioner's naval record by changing the RE-4 reenlistment code, assigned on 15 August 1997, to RE-3T

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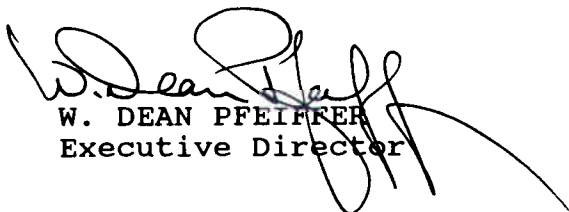
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.


ROBERT D. ZSALMAN                           ALAN E. GOLDSMITH
Recorder                                    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