



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

CRS
Docket No: 8650-00
5 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
(b) BUPERSINST 1900.8

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, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by changing the RE-4 reenlistment code assigned on 25 September 2000.

2. The Board, consisting of Mr. Beckett, Mr. McPartlin, and Ms. Newman, reviewed Petitioner's allegations of error and injustice on 21 February 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 enlisted in the Navy on 27 July 2000 at age 20. On 28 July 2000 he submitted to an accession urinalysis that tested positive for marijuana.

d. On 7 August 2000, administrative separation action was initiated by reason of erroneous enlistment due to pre-service drug abuse. On 10 August 2000, Petitioner submitted a letter in which he requested retention in the Navy. By letter of 7 September 2000, the recruit division commander also recommended

retention, citing his "outstanding job on his duties," and his demonstration of "the Navy core values of Honor, Courage, and Commitment."

e. On 8 September 2000, CAPT G, the Commanding Officer, Recruit Training Command, recommended as follows to the Navy Personnel Command, that the positive urinalysis be waived and that Petitioner be retained in the Navy:

(Petitioner) has expressed his strong desire to remain in naval service...He joined the Delayed Entry Program on 13 July 00 and shipped to boot camp only 15 days later, on 28 July 00, far too short a period for his recruiter to have infused any Navy Core Values. Moreover, despite one minor disciplinary lapse, (Petitioner) has been successfully training during his trial of duty...Finally, his Recruit Division Commander...supports (Petitioner's) retention...

Despite the foregoing, on 13 September 2000 the Commander, Naval Training Center (NTC) recommended that no waiver be granted.

f. The Commander, Navy Personnel Command apparently agreed with the Commander, NTC, because on 22 September 2000, CAPT G directed an entry level separation. In his letter of that date, CAPT G noted that Petitioner failed to disclose his drug use at the Moment of Truth. Accordingly, on 25 September 2000, Petitioner was separated with an entry level separation by reason of "erroneous entry - drug abuse," and was assigned a reenlistment code of RE-4. Just prior to his separation, Petitioner received a letter of appreciation from CAPT G "for outstanding achievement in the performance of his duties while serving as a Recruit..."

g. In an attachment to his application, Petitioner admits that he used marijuana just prior to recruit training, a decision he now regrets. He states that he enjoyed recruit training and cites the letter of appreciation from CAPT G for his attitude and hard work. He believed that he had been given a second chance when he was rolled back and was disappointed when he was subsequently separated. The Navy is still his first love and believes he could be an asset in demonstrating by example the core values of honor, courage, and commitment.

h. Reference (b) indicates that for an individual in Petitioner's situation, an RE-4 reenlistment code must be assigned because the reason for separation is erroneous enlistment due to drug abuse. That code means that the individual is not recommended for reenlistment. An RE-3E reenlistment code can be assigned if there was some other form of erroneous enlistment. This reenlistment code means that the individual is recommended for reenlistment except for the

disqualifying factor of the improper enlistment.

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record a majority of Ms. Newman and Mr. McPartlin, concludes that Petitioner's request warrants favorable action. The majority notes Petitioner's strong desire for retention when processed for separation and the unusual support he received from his division commander and CAPT G, and his current plea for another opportunity to serve. Based on the foregoing, the majority believes Petitioner deserves a second chance, despite current regulations that require a reenlistment code of RE-4. In this regard, the majority is aware that a code of RE-3E will alert recruiting personnel that there was a problem with Petitioner's prior enlistment which must be resolved, and does not guarantee that he will be permitted to reenlist.

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

MAJORITY RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 25 September 2000, Petitioner was assigned an RE-3E reenlistment code instead of the RE-4 reenlistment code actually assigned on that date.

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.

MINORITY CONCLUSION:

The minority member of the Board, Mr. Beckett, disagrees with the majority on changing the RE-4 reenlistment code and concludes that no corrective action should be taken. He believes that giving relief to individuals such as Petitioner who used marijuana prior to recruit training disregards the present policy and that it is not the Board's responsibility to set policy.

MINORITY RECOMMENDATION:

That no relief be granted.

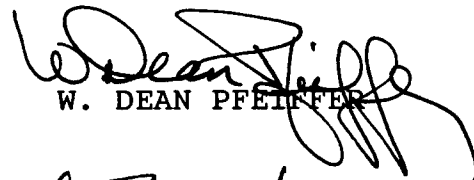
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder




ALAN E. GOLDSMITH
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.



W. DEAN PFEIFFER

MAJORITY REPORT APPROVED: 

~~MINORITY REPORT APPROVED:~~

JOSEPH G. LYNCH
Assistant General Counsel
(Manpower And Reserve Affairs)

APR - 4 2001