



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

JRE
Docket No: 8694-01
18 March 2002

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was assigned a reenlistment code of RE-1 vice the RE-4 code he was assigned on 14 May 1997.

2. The Board, consisting of Messrs. Carlsen, Ensley and McBride, reviewed Petitioner's allegations of error and injustice on 21 February 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 enclosure (1) was filed not in a timely manner, the Board concluded that it would be in the interest of justice to consider the application on its merits.

c. Petitioner served on active duty from 7 April to 14 May 1997, when he was discharged with an uncharacterized, entry level separation, for erroneous entry (other). He was assigned a reenlistment code of RE-4. The specific basis for his separation were the residual effects of reconstructive knee surgery he underwent prior to his enlistment in the Navy. Although he disclosed the condition before he enlisted, neither he nor the medical authorities who approved his enlistment were aware that the knee had not healed to the point where it could withstand the rigors of military training.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board was not persuaded that Petitioner was physically qualified for military service at the time of his discharge, or that his discharge was otherwise erroneous. As such, he was not eligible for an RE-1 reenlistment code. It further concludes, however, that as there is no indication in available records that Petitioner committed any acts of misconduct during his brief period of service, or that he did not perform his duties to the best of his abilities, the stigma associated with an RE-4 reenlistment code is unjust in this case. Accordingly, the Board recommends the following corrective action.

RECOMMENDATION:

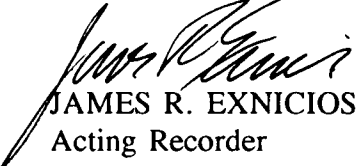
a. That Petitioner's naval record be corrected to show that he was assigned a reenlistment code of RE-3E on 14 May 1997, in lieu of the RE-4 code he actually received on that date.

b. That so much of Petitioner's request for correction of his naval record as exceeds the foregoing be denied.

c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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


JAMES R. EXNICIOS
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