



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

TJR
Docket No: 263-01
19 February 2002

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

Subj: NAVAL RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Naval Reserve, filed enclosure (1) with this Board requesting that his naval record be corrected by changing the reenlistment code.

2. The Board, consisting of Messrs. Beckett, McCulloch, and Taylor, reviewed Petitioner's allegations of error and injustice on 12 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. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Naval Reserve on 25 January 1994 and began a three year period of active duty on 8 September 1994. He served during this period without disciplinary incident.

d. An entry on the enlisted performance record (page 9) notes that Petitioner was advanced in rate to FN(E-3) on 16 March 1996. Another page 9 entry dated 15 July 1996 notes that Petitioner was recommended for advancement to paygrade E-4.

e. On 6 September 1997, while serving in paygrade E-3, Petitioner was honorably released from active duty upon completion of his required active service, and assigned an RE-4 reenlistment code.

f. The applicable regulation in effect at the time of Petitioner's separation, OPNAVINST 1160.5C, notes that an individual separated at the expiration of their obligated service must meet the professional growth criteria before he/she may reenlist. The instruction states, in part, as follows:

To satisfy professional growth criteria for the first reenlistment.... the member must be: (1) serving as a petty officer or, (2) serving in paygrade E-3 having passed an examination for advancement to paygrade E-4 and be currently recommended for advancement, or (3) have formerly been a petty officer in current enlistment and be currently recommended for advancement to paygrade E-4. Failure to meet the professional growth criteria may result in denial of further extensions or reenlistment.

An individual separated in paygrade E-3 who fails to meet the above criteria may receive an RE-3R reenlistment code if recommended for advancement to paygrade E-4 at the time of separation.

CONCLUSION:

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

The Board notes that Petitioner was separated at the completion of his required active duty, and that his entire service record reflects honorable service without any disciplinary incidents.

The Board believes that the assigned RE-4 reenlistment code is inappropriate. An RE-3R reenlistment code is authorized by regulatory guidance and may be assigned to individuals serving in paygrade E-3 who are honorably released from active duty and who are recommended for advancement, but have not been advanced to paygrade E-4 or passed an advancement examination. The Board notes that Petitioner was recommended for advancement. Further, because he had completed his three years of active duty, there was no time to take an advancement examination for paygrade E-4.

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 by showing that he was honorably released from active duty on 6 September 1997 and assigned an RE-3R reenlistment code.

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. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (2 Code of Federal Regulation, 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