



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

TRG
Docket No: 2992-02
19 November 2002

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 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 in the Navy, filed an application with this Board requesting that his record be corrected to show and involuntary separation program designator (SPD) code vice the voluntary SPD code now of record.

2. The Board, consisting of Mr. Milner, Mr. Dunne and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 13 November 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 was filed in a timely manner.

c. Petitioner reenlisted in the Navy for six years on 1 August 1997. At that time, he was authorized a selected reenlistment bonus (SRB) of \$29,995.66. This was paid in an initial installment of \$14,997.82, with additional annual installments of \$2,999.56, to be paid over the six year period. He then served in an excellent manner for over four years.

d. At some point, apparently in 2001, Petitioner's wife abandoned her family and left him to care for two minor children. On 8 August 2001 he submitted a dependent care certificate indicating that he had no one to care for his children and was unavailable for watches and deployments. On 24 September 2001 his divorce became final and he was granted legal custody of his minor children. On 16 November 2001 the commanding officer

recommended discharge stating that assignment to another shore duty billet would not alleviate the problem. The discharge authority's action on this recommendation is not on file. However, he was honorably discharged on 28 December 2001 by reason of parenthood or custody of minor children. At that time, he was assigned an SPD code of "KDG" which indicates his discharge was voluntary.

e. In his application, Petitioner requests that the SPD of KDG be changed to an involuntary code. He contends that the events that resulted in his discharge were beyond his control and he has submitted documentation showing that other members of his family could not take care of the children. He believes that some unspecified benefit would accrue if the SPD code is involuntary.

f. An involuntary SPD of GDG or JDG is assigned when an individual is discharged by reason of parenthood or custody of minor children based on the approved recommendation of an administrative discharge board (ADB), or if an ADB is not required or waived. The record does not reflect whether Petitioner was so processed for separation, or whether his discharge resulted from his own request.

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 granted custody of his children, could not sign a valid childcare certificate, and the command recommended discharge. Even if Petitioner did not request discharge and the separation could be deemed voluntary, the Board is aware that because he could not sign the dependent care certificate, he eventually would have been processed for an involuntary separation. The Board also notes that Petitioner does not state the specific benefit that he believes will accrue from the change in the SPD code. However, given the circumstances, the Board concludes that his discharge was involuntary, and the SPD code should be changed to reflect that fact. Therefore, the SPD code should be changed to JDG vice the SPD code of KDG now of record

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reason for the change in the SPD code.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that at

the time of his discharge on 28 December 2001 he was assigned an SPD of JDG vice the SPD of KDG now of record.

b. That this Report of Proceedings be filed in Petitioner's naval record.

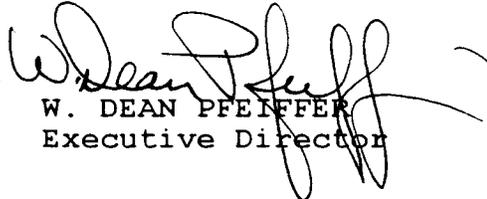
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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 (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