



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

WMP
Docket No. 3409-02
16 October 2002

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

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 Marine Corps, applied to this Board requesting a change in his reenlistment code.

2. The Board, consisting of Messrs. Lippolis, Nicholson, and Dunne, reviewed Petitioner's allegations of error and injustice on 9 October 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 waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Marine Corps on 14 June 1988, in the rank of sergeant (SGT; E-5) after over seven years of prior active service. On 23 August 1989, Petitioner completed a course of instruction for conversion from aviation crashcrewman (MOS 7051) to ammunition technician (MOS 2311).

d. Petitioner served without disciplinary incident until 8 August 1990, when he received nonjudicial punishment (NJP) for being disrespectful to a warrant officer. The punishment

imposed was a forfeiture of \$150, which was suspended for a period of six months. Petitioner then served without further incident until 30 September 1992, when he was honorably discharged at the completion of his required active service and assigned an RE-4 reenlistment code. At this time, he was still serving in the rank of SGT.

e. During his almost two years of service as a SGT prior to his discharge, Petitioner received two fitness reports that rated him as above average to excellent. Specifically, his fitness report for the period of 15 November 1990 to 28 February 1991 stated, "Aggressive, effective NCO that continues to improve daily in SSGT billet. Recently assigned to 2311 MOS." This fitness report further stated that he had "Unlimited potential in MOS."

f. An individual serving as a SGT is limited to 13 years of active service.

g. A reenlistment code of RE-4 means an individual is not recommended for reenlistment. A code of RE-3C is assigned when an individual is deemed ineligible for reenlistment but the ineligibility may be waived by the Commandant of the Marine Corps.

h. A letter to Petitioner of 22 January 2002 from a representative of the Headquarters Marine Corps (HQMC) states that the RE-4 reenlistment code was properly assigned.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board now finds the existence of an injustice warranting corrective action. The Board noted that although he did receive one NJP, this was his only instance of misconduct in over 11 years of service, and that it was relatively minor in nature as evidenced by the fact that all of his punishment was suspended. Further, the Board noted that Petitioner's performance before and after this NJP was categorized as above average to excellent. Additionally, the Board also noted that he was newly assigned to this MOS prior to his NJP and this fact, coupled with the NJP, would have made him non-competitive for advancement in his MOS. The Board felt that although he had almost reached the high year tenure (HYT) for his paygrade, the assignment of an RE-4 reenlistment code was unduly harsh based on the fact that he has the potential to provide future useful service and desires to continue his service in the Marine Corps Reserve. Accordingly, despite the contents of the HQMC letter of 22 January 2002, the Board believes that his reenlistment code should be changed to the less restrictive RE-3C reenlistment code.

RECOMMENDATION:

a. That the record be further corrected to show that on 30 September 1992, Petitioner was issued an RE-3C reenlistment code, vice the RE-4 reenlistment code actually issued 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.

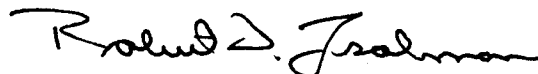
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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