



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

JRE
Docket No: 4503-00
8 January 2001

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 naval record be corrected to show, in effect, that he was assigned a more favorable reenlistment, which would permit him to reenlist without waiver consideration.

2. The Board, consisting of Messrs. Chapman, Mcculloch and Zsalman, reviewed Petitioner's allegations of error and injustice on 4 January 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. Petitioner enlisted in the Marine Corps on 24 March 1998. According to a medical record entry dated 30 March 1998, he was noted to have decreased breath sounds in the left lung. A chest x-ray disclosed evidence of residual left sided infiltrates, which was assessed as slowly resolving pneumonia. A 2 April 1998 medical record entry indicates that he continued to have functional problems secondary to residual pneumonia. Physical examination disclosed decreased air flow on the left with coarse rhonchi through the left lung field, a pleural rub on the left, and a "catch" on deep inspiration. On 2 April 1998, a physician noted that Petitioner had complained of shortness of breath, and he classified Petitioner's condition under IDC-9 code 486.00, which corresponds to a diagnosis of pneumonia; however, he wrote out the diagnosis as "Persistent (L)LL collapse [with] scarring [post] (L)LL Pneumonia". It appears that he inadvertently used the word "collapse"

for the word "infiltrates", as Petitioner was not referred for treatment of a collapsed lung at that time, and persistent lung infiltrates had been found previously. On 10 April 1998, Petitioner was advised of his rights in connection with a proposed discharge by reason of erroneous enlistment. He declined to submit a statement in his own behalf, and did not object to the proposed separation action. On 15 April 1998, he was discharged by reason of "Defective Enlistment & Induction-Erroneous PRE EXISTING LEFT LUNG COLLAPSE (without admin discharge board) ", and assigned a reenlistment code of RE-3F, to indicate that he did not complete initial entry level training.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice in connection with Petitioner's discharge by reason of erroneous enlistment, or the assignment of an RE-3F reenlistment code. In this regard, it noted that regardless of the diagnosis applied to Petitioner's condition, he did not meet the minimum physical standards for enlistment because he had reduced exercise capacity and shortness of breath, as well as persistent lung infiltrates, residual to a persistent lung condition which required medical observation and treatment for an extended period shortly before he entered on active duty.

Notwithstanding the foregoing, the Board notes that Petitioner did not have a collapsed lung; accordingly, it would be in the interest of justice to delete the words "collapsed lung" from his DD form 214.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by the expunction of the words "PRE EXISTING LEFT LUNG COLLAPSE" from the DD form 214 he was issued for the period 24 March-15 April 1998, and that the words .

b. That the remainder of his request for correction of his record be denied.

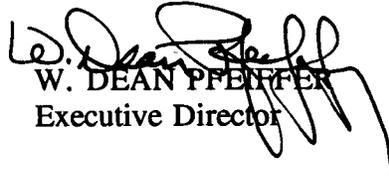
c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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 PFEFFER
Executive Director