



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

FC
Docket No: 10871-02
23 June 2003

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
(b) BUPERSINST 1900.8

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 Navy, applied to this Board requesting, in effect, to change her job title, reenlistment code, and reason for separation to establish eligibility for the Montgomery G. I. Bill (MGIB).

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 18 June 2003 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 enlisted in the Navy on 16 July 1996 at age 19. Subsequently, she elected to participate in the MGIB. On 5 August 1998 she received nonjudicial punishment (NJP) for a ten-day period of unauthorized absence and was awarded a forfeiture of pay and restriction.

d. Petitioner was honorably discharged on 25 September 1998 by reason of parenthood and assigned a reenlistment code of RE-4. An RE-4 reenlistment code means that an individual is not eligible for reenlistment. Applicable regulations require the assignment on an RE-4 reenlistment to individuals that are separated while serving in paygrade E-2.

e. Petitioner was separated for parenthood because of her inability to continue to be ready for deployment throughout the world on short notice and be able to fully execute military duties. In her application, she indicated that her grandmother had recently died, leaving her with no one to care for her child. A review of the record indicates that her grandmother was listed as the person designated for custody of the child.

f. Petitioner was assigned a separation code designator (SPD) of KDG, which indicates that her separation was voluntary. However, an individual may be involuntarily processed for separation due parenthood if he or she is unable to sign a dependent care certificate, certifying that dependents will be properly cared for if the servicemember is deployed.

g. Petitioner desires that the primary specialty listed on her Certificate of Release or Discharge from Active Duty (DD Form 214N) be "plane handler" instead of "electrical/mechanics/equipment repairman." Reference (b) states that in this block of the DD Form 214, the latest primary Navy Enlisted Classification Code listed on the individual's page 4 should be entered. However, Petitioner's record does not contain a page 4.

h. Petitioner is not eligible for the MGIB because she did not complete 30 months of active duty, and there is no provision in the law which would allow Petitioner's MGIB payments to be refunded to her. However, she would be eligible for payments under the MGIB, based on her 26 months of active service, if her separation was involuntary. An SPD code of JDG would indicate that her separation was involuntary and she would be entitled to 26 months of MGIB benefits.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board noted that although the SPD currently assigned indicates her discharge was voluntary, if she had refused to sign a dependent care certificate after the death of her grandmother, she would have been involuntarily processed for separation. Given the death of her grandmother, the Board concluded that Petitioner's SPD code should be changed to JDG so that she can obtain 26 months of MGIB benefits. However, given the NJP, the Board concluded that the RE-4 reenlistment code should not be

changed. Further, Petitioner had not shown that the primary specialty listed on her DD Form 214 is incorrect.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she was assigned a SPD of JDG vice KDG now of record.


b. That no further relief be granted.

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

d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 30 December 2002

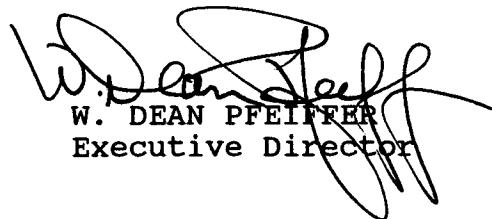
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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