



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

TRG

WASHINGTON DC 20370-5100

Docket No: 7047-08

14 May 2009

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 member of the Navy Reserve, filed an application with this Board requesting that his general discharge, reason for discharge (unsatisfactory drill attendance) and RE-4 reenlistment code be changed.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 May 2009 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 enlisted in the Navy Reserve on 31 July 1997 and incurred an eight year military obligation from that date. On 25 June 1998 he enlisted in the Regular Navy. He then served on active duty until he was released on 24 January 2005, a period of 6 years and 7 months, with an RE-1 reenlistment code. At that time, he was serving as a petty officer second class (AC2; E-5).

d. Petitioner affiliated with a reserve unit on 31 January 2005. A statement of service shows that he attended 12 drills, apparently February, March and April of 2005. His eight year military obligation expired on 30 July 2005 and he should have been honorably discharged that date. The record shows that he did not attend any further drills. Further, there are no extension of enlistment or reenlistments in the record.

e. Apparently, Petitioner's reserve unit believed that he still had a military obligation. Therefore, since he was no longer attending drills he was processed for an administrative discharge. A notification of separation processing which was sent by registered mail to his last known address was returned as unclaimed on 29 November 2005. On 16 February 2006, the commanding officer directed a general discharge by reason of unsatisfactory participation in the Navy Reserve and the assignment of an RE-4 reenlistment code.

f. Petitioner points out in his application that his military obligation expired on 30 July 2005 and that he had no military status after that date. In effect, that any actions taken after that date were improper.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Although he should have made it clear to his unit that his military obligation was over and that he was no longer going to attend drills, it is also clear that he should not have been processed for an administrative discharge after 30 July 2005. Therefore, the Board concludes that the record should show that he was honorably discharged on 30 July 2005 at the end of his military obligation with a recommendation for reenlistment. All documentation concerning discharge processing and the general discharge on 16 February 2006 or any other date should be removed from his record.

#### RECOMMENDATION:

a. That Petitioner's record be corrected to show that he was honorably discharged on 30 July 2005 at the end of his military obligation, and assigned an RE-1 reenlistment code vice the RE-4 code now of record.

b. That Petitioner's record be further corrected to show that his reason for separation was completion of required active service vice unsatisfactory drill attendance.

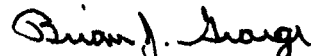
c. That all documents and related computer entries after that date be removed or expunged.

d. 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.

e. Than any material directed to be removed from Petitioner's naval record be returned to the Board, together with 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

  
BRIAN J. GEORGE  
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.

  
FR W. DEAN PFEIFFER  
Executive Director