



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

SMS
Docket No: 12321-08
16 April 2009

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) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Marine Corps, applied to this Board requesting an RE-1 reenlistment code vice the RE-4 that was issued on 18 November 2007, when he was honorably released from active duty.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 April 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, advisory opinion, 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. On 19 November 2003, while participating in Operation Enduring Freedom in Afghanistan, Petitioner reenlisted in the Marine Corps at age 23 after a prior period of honorable service. On 6 April 2004, he departed Afghanistan with his unit. On 1 October 2004, he was promoted to pay grade E-5 and subsequently received favorable fitness reports. On 19 July 2007, he had nonjudicial punishment (NJP) for drunken or reckless driving, which resulted in his reduction in rank to pay grade E-4. On 23 July 2007, he was counseled regarding this offense and given an administrative discharge warning. On 18 November 2007, he was honorably released from active duty due to completion of required of required active service. The DD Form 214 issued on that date shows that he was assigned an RE-4 reenlistment code, but the Marine Corps Total Force System (MCTFS) indicates that

he was recommended for reenlistment. At the time that he was released from active duty, he had completed more than seven years of active service and attained 4.7 proficiency and conduct mark averages. His awards included two Good Conduct Medals (GCM's), two Navy and Marine Corps Achievement Medals, a Global War on Terrorism (GWT) Service and a GWT Expeditionary Medal, a Navy and Marine Corps Overseas Service Ribbon, a National Defense Service Medal, a Sea Service Deployment Ribbon, a Certificate of Commendation, and a Certificate of Appreciation. On 27 April 2008, he was honorably discharged from the Marine Corps Reserve due to the expiration of his obligated service.

d. Attached to enclosure (1) is an advisory opinion from Headquarters Marine Corps, which states, in part, as follows:

...[Petitioner's] service record has been reviewed and it has been determined that at the time of separation he was assigned a reenlistment code of RE-4, which means that he was not recommended for reenlistment. The reenlistment code was correctly assigned and was based on his overall record.

...[Petitioner] was honorably discharged from the U.S. Marine Corps...[his] service records indicate that he was counseled for driving a motor vehicle while intoxicated...[and] he was awarded one [NJP] for...drunken or reckless operation of a vehicle...

...After a review of all relevant information, this Headquarters concurs in the professional evaluation of [Petitioner's] qualifications for reenlistment at the time of separation...

e. In his application, Petitioner states in essence that he received an RE-4 reenlistment code because of one isolated incident after almost seven years of service and that he has no other adverse actions. He further states that he has learned from this experience and requests that he receive an RE-1 reenlistment code so that he may be considered for reenlistment in another branch of the armed forces.

f. Regulations authorize assignment of an RE-4 reenlistment code to members who are not recommended for reenlistment. Regulations also authorize assignment of an RE-1B reenlistment code to corporals with satisfactory performance records who are released from active duty and are recommended and eligible for reenlistment except for service limitations established by Enlisted Career Force Controls. Regulations state that service limitations for Marines serving in pay grade E-4 are eight years.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. In this regard, with the exception of the RE-4 reenlistment code reflected on his DD Form 214, there is no evidence in the record to show that he was not recommended for reenlistment and the MCTFS shows that he was recommended. Furthermore, the Board finds that he served without incident for more than seven years before he had an NJP that resulted in his reduction to pay grade E-4. The Board also finds that given his overall exemplary service record, there is no reason that he would not have been considered for reenlistment except for service limitations since he had no other adverse action other than one NJP. The Board also considers his service in Afghanistan, prior period of honorable service, awards that included two GCM's, and excellent proficiency and conduct marks and fitness reports. Therefore, the Board finds that the RE-4 reenlistment code should be changed to RE-1B.

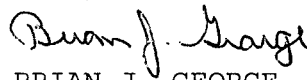
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was assigned an RE-1B reenlistment code on 18 November 2007, vice the RE-4.

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.

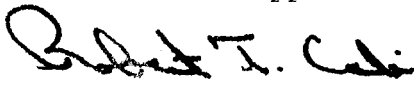
ROBERT D. ZSALMAN
Recorder


BRIAN J. GEORGE
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.


W. DEAN PFEIFFER
Executive Director

Reviewed and approved:


5-11-09