



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

CRS  
Docket No: 4542-09  
15 June 2009

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: FORMER [REDACTED] REVIEW OF  
NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner applied to this Board requesting his naval record be corrected by changing the reentry code he was assigned on 12 August 2008.

2. The Board, consisting of Messrs. [REDACTED], [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 June 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 enlisted in the Navy on 26 June 2008. On 14 July 2008 he was diagnosed with scoliosis. On 12 August 2008 he received an entry level separation by reason of fraudulent entry and was assigned a reentry code of RE-4. He did not have any disciplinary action taken against him during his period of service.

c. An RE-4 reentry code is required if an individual is separated by reason of fraudulent entry. An individual may be separated due to erroneous entry if the enlistment would not have occurred if the relevant facts had been known but there was no fraudulent conduct on the individual's part. Applicable regulations authorize the assignment of either an RE-3E or RE-4 reentry code to an individual separated for erroneous entry.

d. Petitioner argues that he was misdiagnosed and never represented or covered up a back condition.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board believes that the reason for discharge should be changed to erroneous entry since Petitioner was unaware of his condition when he was accepted for enlistment. Accordingly, the Board recommends that Petitioner's reason for separation be changed to erroneous entry.

The Board also concludes that an RE-3E reentry code should be assigned since there is no evidence that Petitioner had any performance or disciplinary infractions during his period of service and his record does not otherwise support the more stigmatizing code of RE-4.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 12 August 2008 he received an entry level separation by reason of erroneous entry and was assigned a reentry code of RE-3E.

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

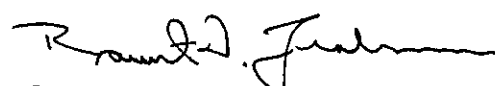
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



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 PFEIFFER  
Executive Director