



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

TJR
Docket No: 3652-10
28 March 2011

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

Subj: [REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) Case summary with advisory opinion (AO)
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy Reserve, filed enclosure (1) with this Board requesting recharacterization of his discharge, a change of his narrative reason for separation and reenlistment code, and removal of all derogatory material from his record. He further requested that his record be corrected to reflect advancement to paygrade E-4.

2. The Board, consisting of Messrs. Gattis, Spain, and Zsalman, reviewed Petitioner's allegations of error and injustice on 22 March 2011 and, pursuant to its regulations, determined that partial corrective action, as 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. In addition, the Board considered the AO provided by the Navy Personnel Command (NPC) dated 28 February 2011, a copy of which is enclosed.

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 enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review.

c. Petitioner, while located in Marion, SC, enlisted in the Navy Reserve on 4 February 1992 at age 20 and began a period of active duty training on 4 November 1992. He served without disciplinary incident and was advanced to paygrade E-3/DKSN. On 21 February 2000, he was honorably released from active duty training.

d. It appears that on 26 February 2002, while located in Charlotte, NC, Petitioner reenlisted in the Navy Reserve. The record reflects satisfactory participation until 1 July 2002. On 16 July 2002, after what was presumed to be his failure to continue participating in drills, an attempt was made, via mail, to notify him of pending administrative separation action by reason of unsatisfactory participation. In this regard, there is no evidence in the record to reflect that confirmation of the notification attempt was successful. In other words, there is no signed and/or acknowledged receipt that he was notified of the pending administrative separation.

e. Subsequently, the discharge authority at the Naval and Marine Corps Reserve Center (NMCRC), Charlotte, NC, directed discharge under honorable conditions by reason of unsatisfactory participation in the Ready Reserve. On 2 October 2002 Petitioner, while serving in paygrade E-4/UT3, was issued a general discharge.

f. On 16 December 2002, NPC (PERS-913), directed NMCRC to provide the administrative processing documentation in support of Petitioner's discharge.

g. An AO from NPC (PERS-91) recommends the recharacterization of Petitioner's discharge and a change of his reenlistment code. The AO, however, does not recommend that he be advanced to paygrade E-4 because he did not successfully complete a program that would have permanently placed him in that paygrade. The AO stated, in part, that although his command executed a local administrative separation on the basis of allegedly failed participation in regularly scheduled drills, the official record contains no evidence that nine or more unexcused absences had been accumulated. The separation package contains documentation that reflects "authorized absences" for missed drills vice "unexcused" absences. It appears that he enlisted through the Navy's Construction Basic-Veteran (CB-VET) Program and as a member of this program, his paygrade of E-4 would have been temporary and only made permanent upon the successful completion of the program requirements. It is not likely that he would have been able to complete the program requirements given his drill

history. Based on the lack of supporting documentation in his official military personnel file, it is recommended that the characterization of his service be changed to reflect "honorable" and the reenlistment code be changed to reflect an "RE-1" reenlistment code.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the AO, the Board concludes that Petitioner's request warrants partial favorable action.

The Board notes Petitioner's prior honorable service and overall satisfactory record of service after his reenlistment. In addition, the Board considers the PERS-913 AO and substantially concurs with the comments and recommendations contained therein. Further, the Board concludes that although PERS-913 did not recommend a change of the narrative reason for separation, the reason for separation should be changed to "Secretarial Authority" to support the assignment of an RE-1 reenlistment code. In this regard, the Board concludes that the record should be corrected to reflect an "honorable discharge by reason of secretarial authority, and an assigned RE-1 reenlistment code" which is more appropriate than the general discharge by reason of unsatisfactory participation, and the assigned RE-4 reenlistment code now of record.

The Board further concurs with the PERS-913 AO regarding denial of advancement to paygrade E-4 since the record clearly reflects that Petitioner did not successfully complete the CB-VET program as required for permanent advancement to paygrade E-4.

In view of the foregoing, the Board finds the existence of an injustice warranting the following partial corrective action.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected by changing the general characterization of service, assigned on 2 October 2002, to **Honorable**.
- b. That Petitioner's naval record be corrected by changing the unsatisfactory participation narrative reason for separation, assigned on 2 October 2002, to **Secretarial Authority**.
- c. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 2 October 2002, to **RE-1**.

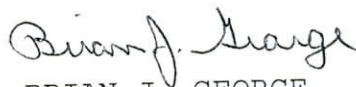
d. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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

f. That no further relief be granted.

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


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 Regulation, 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