



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

BAN
Docket No: 07262-10
11 April 2011

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) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy Reserve, filed enclosure (1) with this Board requesting, in effect, that her reentry code assigned on 29 July 2005 be changed from RE-4 (ineligible for reenlistment) to RE-3H (hardship).

2. The Board, consisting of Mr. Butherus and Ms. Countryman and Ms. Henkel, reviewed Petitioner's allegations of error and injustice on 30 March 2011 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 had prior service in the Navy from 1995 to 1999 where she received an honorable discharge. She reenlisted on 9 December 2001, and served without disciplinary incident until 1 October 2004, when she received nonjudicial punishment (NJP) for six specifications of effecting unlawful enlistments. She then requested separation under the early transition program. On 23 June 2005, her request was approved, and she was separated with an honorable discharge due to a reduction in force and was

assigned an RE-4 reentry code. She was given a separation code of KCC (reduction in force). Her final evaluation report ending on 3 February 2005 recommends her for retention.

c. Petitioner argues that she should have been given an RE-3H (hardship) reentry code. She was in the process of gaining full custody of her nephew and needed to leave active duty. An RE-3H reentry code is waivable to allow reenlistment by prior service recruiting personnel. The hardship separation code is KDH.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Although the Board notes her NJP and does not condone misconduct, it also notes that she was not separated due to misconduct, but due to a reduction in force that she requested. Furthermore she was also given a separation code of KCC (reduction in force). The Board believes that she should have been separated for hardship based on her getting custody of her nephew. Therefore, the Board concludes that her reentry code should be changed to RE-3H hardship vice RE-4 and the KCC separation code should be changed to KDH. In view of the above, the Board recommends the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she received an RE-3H reentry code on 29 July 2005, vice the RE-4 now of record.

b. That Petitioner's record be further corrected to show that her reason for separation was hardship vice reduction in force, and that her separation code be KDH vice KCC.

c. 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.

d. 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.

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