



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

BC

Docket No: 04962-13

8 April 2014

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

Subj: REVIEW OF NAVAL OF RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) NDRB rpt dtd 30 Jun 12
(3) HQMC MMER/RE undated memo
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his RE-4 (not recommended for retention) reentry code, issued on 9 February 2001, be changed to RE-1A (recommended and eligible for retention) and that he be reinstated to lance corporal, pay grade E-3. By implication, he further requested to have his separation code of HSG1 (failure to participate) changed.

2. The Board, consisting of Mr. Clemmons, Mr. Tew, and Ms. Henkel, reviewed Petitioner's allegations of error and injustice on 19 March 2014, and, pursuant to its regulations, determined that the limited 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 which were available under existing law and regulations within the Department of the Navy.

b. Petitioner entered the Marine Corps Reserve on 25 March 1997. He received no disciplinary actions during his time of service. Due to an administrative oversight and breakdown in communication within his organization, he was separated with an under other than honorable characterization (UOTHC) of service and assigned an RE-4 reentry code due to failure to participate on 9 February 2001. Moreover he was administratively reduced from lance corporal to private. In its report NDRB concluded that it was evident that Petitioner's reserve command, active-duty Inspector Instructor staff, and supporting Navy medical staff did not coordinate matters appropriately among themselves. This resulted in Petitioner having clear direction not to attend drill due to being in either a Temporary Not Physically Qualified (TNPQ) status or a Non Physically Qualified (NPQ) status from his command's medical staff. A waivable RE-3P (condition, not a disability) could have been assigned.

c. On 30 May 2012, the Naval Discharge Review Board (NDRB) (enclosure 2) upgraded Petitioner's characterization of service to fully honorable and changed his narrative reason for separation to Secretarial Authority. The NDRB based its decision on the fact that his medical condition made him unfit to attend drill. The NDRB found that he should have received a type warranted by service record characterization of service.

d. Enclosure (3) is an unfavorable advisory opinion from Headquarters Marine Corps recommending that Petitioner's RE-4 reentry code not be changed. The advisory opinion concludes that the RE-4 reentry code was correctly assigned at the time due to Petitioner's unsatisfactory drill attendance and that he has failed to provide evidence that he was not physically qualified to attend drill.

e. JFF is the correct separation code for an individual who is separated due to Secretarial Authority.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the unfavorable advisory opinion, the Board concludes that Petitioner's request warrants partial favorable action. The Board disagrees with the advisory and finds that Petitioner has provided sufficient evidence to show that he was not physically qualified to attend drill. However, the Board believes that he is not eligible for an RE-1 reentry code in light of his physical condition and that the proper course of action is to change his reentry code from RE-4 to a waivable RE-3P. The Board also finds that reinstatement to pay grade E-3 is warranted. Finally, Petitioner's separation code should be

JFF due to NDRB's change of his narrative reason for separation to Secretarial Authority. In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

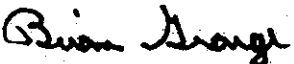
a. That Petitioner's naval record be corrected to show that he received an RE-3P vice an RE-4 reentry code on 9 February 2001, and that he continued to serve as a lance corporal pay grade E-3 until discharged on 9 February 2001.

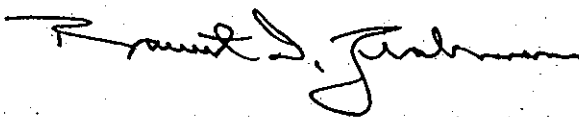
b. That his naval record be further corrected by changing his separation code from HSG1 to JFF.

c. That no further relief be granted.

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


ROBERT D. ZSALMAN
Acting Executive Director

Reviewed and approved: