



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3478-99

27 September 1999

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 w/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 filed enclosure (1) with this Board requesting that his reenlistment code be changed.
2. The Board, consisting of Mr. Whitener, Ms. McCormick and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 14 September 1999 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. Enclosure (1) was filed in a timely manner.
  - c. Petitioner enlisted in the Navy on 16 January 1997 at age 18. On 2 April 1997 he received nonjudicial punishment for leaving his appointed place of duty. Five days later he was diagnosed as being alcohol dependent. During the evaluation he reported using alcohol over 600 times since age 15. On 8 April 1997 he was notified that he was being processed for a void enlistment because of the diagnosed alcohol dependence. At that time, he elected to waive all of his procedural rights. On 10 April 1997 the separation authority directed that his enlistment be voided and he was so separated on 15 April 1997. At that time he was not recommended for reenlistment and was assigned an RE-4 reenlistment code.
  - d. The DD Form 214 issued on Petitioner's separation from

service has all zeros entered in the record of service section (block 12). It states in the remarks section (block 18) "Entered:97Jan16/Released:97Apr15"

e. The Board is aware that Federal law requires that an enlistment be voided if an individual is determined to be drug or alcohol dependent. However, the law requires that the testing and evaluation to determine dependence be conducted within 72 hours of reporting to initial active duty.

f. The Board is also aware that an individual can be separated due to an erroneous enlistment if there is a condition which, had it been known prior to enlistment, would have prevented enlistment. Alcohol dependence is such a condition. The regulations allow for the assignment of an RE-4 reenlistment code with this reason for separation.

#### 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 Petitioner's enlistment could properly have been voided if the diagnosis of alcohol dependence had been made within 72 hours, as required by law. Since he was not diagnosed as alcohol dependent until 81 days after he reported to active duty, the record should not show that his enlistment was voided. Therefore, the Board concludes that the record should be corrected to show that he received an entry level separation due to erroneous enlistment. The DD Form 214 should also be corrected to show the appropriate dates and computation of service in block 12. In addition, the dates of entry and separation and the words "enlistment void" should not be entered in block 18 of the DD Form 214.

Concerning the reenlistment code, the Board notes that Petitioner's diagnosed alcohol dependence is disqualifying for service, and the regulations allow for the assignment of an RE-4 reenlistment code when an individual is separated due to erroneous enlistment. Therefore, the Board concludes that the RE-4 reenlistment code was correctly assigned and no change is warranted.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by issuing him a new DD Form 214 which reflects, that he served on active duty from 16 January 1997 to 15 April 1997 and on the latter date he received an uncharacterized entry level separation by reason of erroneous enlistment.

b. That Petitioner's request for a change in his RE-4 reenlistment code be denied.

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 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. 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



ALAN E. GOLDSMITH  
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