



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

WMP
Docket No. 3386-02
15 January 2003

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 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 Navy, applied to this Board requesting, in effect, that her reenlistment code be changed.

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and Haney, reviewed Petitioner's allegations of error and injustice on 15 January 2003 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. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 25 April 1994 for four years at age 20.

d. The record further shows that Petitioner failed to maintain bodyfat standards as evidenced by entries on her physical readiness testing results record. These records indicated that bodyfat percentages of 31% on 13 April 1995, 33% on 13 October 1995, and 40% on 8 May 1997.

e. On 1 December 1995, Petitioner was counseled and warned concerning her failure to meet the minimum physical readiness requirements and her placement in the command directed physical remedial physical readiness program.

f. On 21 July 1997 Petitioner was advised that administrative separation action was being initiated by reason of weight control failure. She was advised of and retained all of her rights concerning the proposed separation, including the right to submit statements, obtain copies of documents supporting the basis for the proposed separation, and have the proposed separation reviewed by the general court-martial convening authority.

g. On 12 August 1997, the commanding officer forwarded the administrative separation action to the discharge authority recommending separation due to weight control failure, with characterization of service as warranted by her service record.

h. On 15 August 1997 the general court-martial convening authority reviewed the proposed separation and found that separation was appropriate. Accordingly, on 1 December 1997 Petitioner was honorably discharged by reason of weight control failure and assigned an RE-4 reenlistment code.

i. Regulations authorize the assignment of an RE-3T or RE-4 reenlistment code to individuals separated by reason of weight control failure. An RE-3T reenlistment code means an individual is ineligible to reenlist without a waiver of the disqualifying factor by Commander, Navy Recruiting Command. An RE-4 reenlistment code means an individual is ineligible for reenlistment and waivers will not be considered.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board concludes that Petitioner was correctly processed for administrative separation by reason of failure to meet physical readiness requirements due to weight control failure. However, the Board believes that given Petitioner's 44 months of service without disciplinary incident and the lack of any adverse performance entries not related to her weight control failures, assignment of the most restrictive reenlistment code is unjust. Accordingly, the record should be corrected to show that he received an RE-3T vice an RE-4 reenlistment code.

RECOMMENDATION:

a. That Petitioner's naval record be changed by changing the RE-4 reenlistment code, assigned on 1 December 1997, to RE-3T.

b. 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.

c. 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. 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