



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

JRE
Docket No: 6862-02
20 December 2002

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that her naval record be corrected to show that she was discharged by reason of Secretarial Authority, and assigned a reenlistment code of RE-1.

2. The Board, consisting of Messrs. Grover, Neuschafer and Pauling, reviewed Petitioner's allegations of error and injustice on 12 December 2002 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 underwent a pre-enlistment physical examination on 16 March 2001. She was noted to have moderate pes planus, which was not symptomatic. She denied a history of foot pain and orthotic use. She enlisted on 29 October 2001, and served until 23 January 2002, when she was discharged for failing to meet procurement medical fitness standards because of painful feet, and assigned a reenlistment code of RE-4. The discharge was based on her disclosure of a previously concealed eight year history of foot pain, which had increased with military training, and precluded her from completing training. She was discharged without objection from her.

d.. Counsel contends, in effect, that Petitioner was found fit for enlistment, and that she was, in fact, fit for service. He questions the accuracy of Petitioner's statement concerning her long history of pre-service foot pain, given her age (18) when she made the statement. He maintains that there was no therapy or attempt to remediate the problem. He presents evidence from a physician to the effect that Petitioner has "relaxed pronated feet", rather than "true pes planus", which can be improved with the use of orthotic devices. He contends that it is fundamentally unfair to preclude future military service based on a one time diagnosis, and even more unfair where the regulation contemplates some form of therapy and none was provided her.

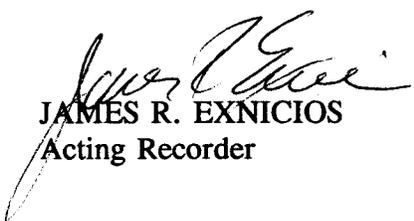
CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's separation was proper. Available records indicate that she was prescribed medication for her condition, and was given exercises to ameliorate her condition. Those measures failed, and her discharge was warranted. Contrary to counsel's assertion, she was noted to have pes planus during examinations conducted both before and after she enlisted. Had she been truthful when undergoing her pre-enlistment examination, it is unlikely she would have been permitted to reenlist. The difference between "pes planus" and "relaxed pronated feet" is insignificant, especially given her medical expert's comment that he condition became symptomatic "only after long periods of standing, walking or running", all of which are, of course, required of military trainees. Notwithstanding the foregoing, the Board does not feel that it is fair for her to be stigmatized by a reenlistment code of RE-r. Accordingly, it recommends the following corrective action.

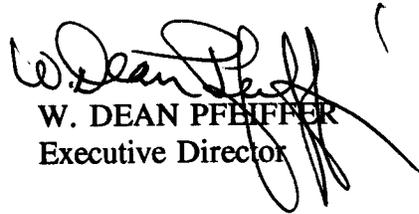
RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that she was assigned a reenlistment code of RE-3E, vice the code of RE-4 she received on 23 January 2002.
 - b. That so much of Petitioner's request for correction of her naval record as exceeds the foregoing be denied.
 - c. That a copy of this Report of Proceedings be filed in 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


JAMES R. EXNICIOS
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