



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

ELP
Docket No. 7775-99
10 March 1999

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
(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, applied to this Board requesting, in effect, that his naval record be corrected to show a more favorable type of discharge than the general discharge issued on 5 March 1976.

2. The Board, consisting of Ms. Nofziger, Ms. Gilbert, and Mr. Taylor reviewed Petitioner's allegations of error and injustice on 8 March 2000, 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 Naval Reserve on 13 January 1975 for six years. He was ordered to active duty on 12 February 1975 for a period of 28 months in return for a class "A" school guarantee.

d. Petitioner was advanced to RMSN (E-3) and served without incident until 20 January 1976 when he was referred for a psychiatric evaluation due to difficulty in adjusting to the service environment and military authority. He was diagnosed with an immature personality disorder, a condition existing prior to service. Administrative separation by reason of unsuitability was recommended.

e. On 23 February 1976, Petitioner was notified that he was being considered for discharge by reason of unsuitability due to a diagnosed character and behavior disorder. He was advised of his procedural rights and submitted a statement in his own behalf. Thereafter, the commanding officer (CO) recommended discharge under honorable conditions, stating that since reporting on board, Petitioner "had not been able to accept living conditions nor close proximity of his shipmates inherent on ships." The CO went on to state that he was unstable in his emotions, actions, and attitude; could not or would not accept proper military authority and had many minor confrontations with his superiors; and was unable to cope with different ideas, theology, or opinions which did not match his own.

f. The Chief of Naval Personnel (CNP) approved the recommendation and directed Petitioner be separated by reason of unsuitability with the type of discharge warranted by the service record. Petitioner was discharged under honorable conditions on 5 March 1976.

g. Character of service is based, in part, on military behavior and overall traits averages which are computed from marks assigned during periodic evaluations. Petitioner's behavior and overall traits averages were 3.3 and 3.34, respectively. The minimum average marks required for a fully honorable characterization at the time of his discharge were 3.0 in military behavior and 2.7 in overall traits. Accordingly, the type of discharge warranted by Petitioner's service record was an honorable discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board first notes that CNP directed discharge with characterization as warranted by the service record. Since his behavior and overall traits were sufficiently high for an honorable discharge, that was the characterization he should have received. Accordingly, issuing him a general discharge was erroneous. Such a characterization also appears unjust since he had no disciplinary actions during his 14 months of service. The Board thus concludes that it would be appropriate and just to recharacterize his service to fully honorable.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable discharge on 5 March 1976 by reason of unsuitability vice general discharge as now shown on DD Form 214. This should include the issuance of a new DD Form 214.

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.

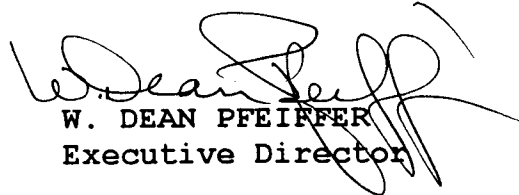
c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 9 December 1999.

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