



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

TJR
Docket No: 28-01
22 June 2001

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

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

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

Encl: (1) DD Form 149 with 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, in effect, that the characterization of his discharge be changed.

2. The Board, consisting of Mr. Leeman, Ms. McCormick, and Ms. Wiley, reviewed Petitioner's allegations of error and injustice on 12 June 2001 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 enclosure (1) 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 30 October 1974 at the age of 21. At that time, he had completed 12 years of formal education and attained test scores which placed him in Mental Group III

d. During Petitioner's enlistment, he was not the subject of any disciplinary actions.

e. On 17 June 1975, after undergoing a psychiatric evaluation, Petitioner was diagnosed with a character and behavior disorder and an immature personality. During this evaluation, Petitioner reported that prior to his enlistment in the Navy, he had taken several enlistment examinations for entry into the Armed Forces and that since his enlistment he had problems with other Sailors. The report noted, in part, as follows:

....states that he took the exam for the regular Army x4 but failed to pass.... also reports taking the Air Force qualification exam x2 and the Navy x2.... Navy finally accepted him.... states that people make fun of him on board ship and that he is called a retard and this angers him.... states that he did not feel he could adjust to shipboard life.... reports difficulty getting to sleep and occasional nocturnal awakenings.... reports fleeting and weak suicidal ideations.

He appears to be of low average to borderline intelligence. This (Patient) does not appear to have the necessary educational, cultural, personal, or emotional (illegible) to adjust to the stresses of Naval Service.

f. On 25 July 1975 Petitioner was issued a general discharge under honorable conditions by reason of unsuitability due to a character and behavior disorder. At the time of his discharge Petitioner's conduct and overall traits averages of 2.8 was below the average marks of 3.0 and 2.7 which were required for a fully honorable characterization of service. However, it should be noted that these averages were computed from a single set of marks assigned on the date of his discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board's finding is based on Petitioner's apparent inability to succeed in the Navy and the fact that he received no disciplinary actions. In this regard, the Board notes the comments of the psychologist to the effect that despite his test scores to the contrary, Petitioner's mental capacity was very limited, and arguably should not have been enlisted. Additionally,, he had no disciplinary problems during his period of service. Finally, although his conduct and overall traits were substandard, they were based on only one set of marks which were assigned after discharge had been directed and he was practically 'out of the door.'

Based on the foregoing the Board concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under honorable conditions, and recharacterization to a fully honorable discharge is appropriate. Accordingly, the Board concludes that relief in the form of recharacterization of Petitioner's discharge is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was honorably discharged on 25 July 1975 vice the general discharge under honorable conditions on the same day.

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 Regulation, 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 PFEFFER
Executive Director