



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 6948-00
10 August 2001

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
[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, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show a more favorable type of discharge than the bad conduct discharge issued on 10 August 1949.

2. The Board, consisting of Messrs. Pfeiffer, George, Zsalman, reviewed Petitioner's allegations of error and injustice on 25 July 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 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 September 1947.

d. A summary court-martial convened on 24 June 1949 and found Petitioner guilty of stealing a fishing rod and reel from a fellow Sailor and reselling it to another Sailor. The court sentenced him to forfeitures of \$30 per month for eight months, extra duty for three months, and a bad conduct discharge. He

received the bad conduct discharge on 10 August 1949.

e. Petitioner requested that his discharge be changed so he could be buried next to his deceased wife in a military cemetery. He also stated that his postservice conduct was good. An FBI report obtained by the Board corroborates this contention.

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 notes that Petitioner stole personal property from a shipmate and sold that stolen property to another Sailor. However, since the theft was relatively minor in nature, the Board believes that the offenses did not warrant the severe characterization that he received. Further, Petitioner's postservice conduct has been good. Based on the foregoing, the Board concludes that the discharge should be recharacterized to general.

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 issued a general discharge by reason of misconduct on 10 August 1949 vice the bad conduct discharge issued on that date.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

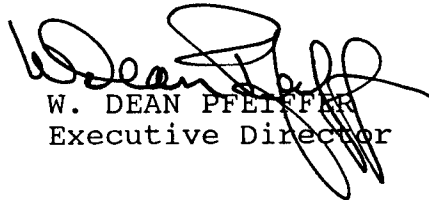
c. That, upon request, the Veterans Administration be informed that Petitioner's application was received by the Board on 16 October 2000.

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