



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

JRE
Docket No: 7702-00
21 August 2001

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 his naval record be corrected to show that he was retired by reason of physical disability, with an honorable characterization of service.

2. The Board, consisting of Messrs. Bishop, Morgan and Shy, reviewed Petitioner's allegations of error and injustice on 9 August 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 enclosure (1) was not filed in a timely manner, the Board finds it to be in the interest of justice to waive the statute of limitations and consider the application on the merits.

c. Petitioner reenlisted in the Navy on 15 December 1988, with 9 years, 6 months and 7 days of prior active service. On 6 October 1990, he was diagnosed by a Navy psychiatrist as suffering from major depression, resolved, and it was recommended that he be returned to full duty. On 12 October 1990, a Navy nurse evaluated Petitioner, and gave him a diagnosis of major depression, with suicidal ideation, and recommended that he be hospitalized at a civilian facility. She deferred making a diagnosis on Axis II, personality disorders.

disorders. Petitioner was hospitalized at a Department of Veterans Affairs (VA) hospital from 18 to 23 October 1990, and upon discharge was given diagnoses of adjustment disorder with depressed mood, and personality disorder, not otherwise specified. On 23 October 1990, a Navy psychologist determined that Petitioner suffered from a severe, longstanding personality disorder, not otherwise specified, and recommended that he be considered for administrative separation because of that disorder. On 2 November 1990, Petitioner was advised of his rights in connection with his proposed discharge. He waived all rights other than to receive copies of documents to be forwarded to the discharge authority. He did not object to the separation, but requested an honorable discharge. He noted that he had 11 years of service, with good performance, and no nonjudicial punishments, unauthorized absences, missed movements, or driving under the influence charges. He was discharged under honorable conditions on 12 November 1990, by reason of Other Physical/Mental Condition-Personality Disorder. He received marks of 4.0, 3.8 and 1.0 in military behavior during that enlistment, for an average of 2.93. He did not qualify for an honorable discharge, which required a minimum final average of 3.0 in behavior. He apparently sought psychiatric help in 1994, and was awarded a VA rating for major depression of 50% from 30 September 1994, and 100% from 1 August 1995.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the available evidence insufficient to demonstrate that Petitioner was unfit for duty because of major depression at the time of his discharge, or that the diagnosis of a personality disorder was erroneous. In this regard, it notes that diagnoses of major depression and personality disorder are not mutually exclusive, and that an individual may suffer from both conditions simultaneously. It appears that Petitioner's acute depression had resolved prior to his discharge, but that his personality disorder persisted, and rendered him unsuitable for further service. The recurrence and/or increase in severity of his depressive disorder which occurred in the years following his discharge is a matter under the purview of the VA, rather than the Department of the Navy.

In addition to the foregoing, the Board concludes that the mark of 1.0 Petitioner received in personnel behavior during the final evaluation period prior to his discharge was unduly harsh and unwarranted, and that it would be in the interest of justice to correct his record to show that he received an honorable discharge.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that he was honorably discharged from the Navy on 12 November 1990.
- b. That the remainder of his request for correction of his record be denied.
- c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

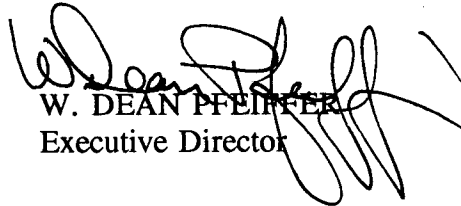
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's 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