



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

TJR
Docket No: 4477-02
28 January 2003

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 Navy, filed enclosure (1) with this Board requesting that the characterization of his discharge be changed.
2. The Board, consisting of Messrs. Bishop, Taylor, and Tew, reviewed Petitioner's allegations of error and injustice on 23 January 2003 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 24 February 1988 at the age of 23.
 - d. Petitioner served for more than a year without incident. However, on 24 April and again on 29 November 1989, he was received nonjudicial punishment (NJP) for two periods of absence from his appointed place of duty and two specifications of failure to obey a lawful order.

e. On 20 December 1989 Petitioner was disqualified for submarine duty due to pending administrative separation action by reason of misconduct.

f. Petitioner was subsequently processed for separation by reason of misconduct due to commission of a serious offense, and on 22 December 1989 he was issued an other than honorable discharge.

g. In his application, Petitioner contends that he has been a model citizen since his discharge, and a Federal Bureau of Investigation (FBI) background check indicates that he does not have a criminal record.

CONCLUSION:

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

The Board initially notes Petitioner's misconduct, and does not condone his infractions. However, the Board is also aware of Petitioner's year of unblemished service, the relatively minor nature of his misconduct, and his good post service conduct. In this regard, the Board believes that no useful purpose is served by continuing to characterize Petitioner's service as having been under other than honorable conditions, and concludes that recharacterization to a general 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 issued a general discharge on 22 December 1989 vice issued the other than honorable discharge actually issued on that same day.

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 14 May 2002.

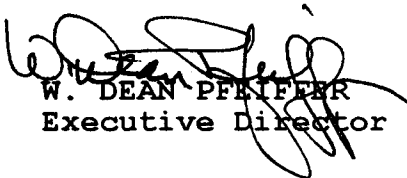
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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 PFEIFFER
Executive Director