



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

TJR
Docket No: 9381-02
15 August 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. Agresti, Milner, and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 12 August 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 26 March 1965 at age 17 for four years. At the time of enlistment, he had completed 11 years of formal education.

d. Petitioner participated in the Vietnam War and was awarded the National Defense Service Medal, Republic of Vietnam Campaign Medal with device, Navy Unit Commendation Ribbon, and the Republic of Vietnam Service Medal.

e. During the period from 3 March 1966 to 21 July 1967 Petitioner received nonjudicial punishment (NJP) on four occasions. His offenses were failure to obey a lawful order, wrongful possession of identification cards, three periods of absence from his appointed place of duty, hitchhiking, and disobedience. He was also convicted by civil authorities of loitering.

f. On 12 November 1968 Petitioner was convicted by special court-martial (SPCM) of three periods of unauthorized absence (UA) totaling 51 days and escape. He was sentenced to a \$388 forfeiture of pay, reduction to paygrade E-1, confinement at hard labor for four months, and a bad conduct discharge (BCD). Subsequently, Petitioner requested immediate execution of the BCD, and on 19 February 1969 he was so discharged.

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 disciplinary infractions in both the military and civilian communities, and does not condone his record of misconduct. However, the Board is also notes his youth and immaturity, and limited education. Further the Board is aware that up until the court-martial conviction which imposed the punitive discharge, Petitioner's misconduct consisted primarily of very minor offenses. Additionally, Petitioner served during the Vietnam War, and he served 40 months of his 48 month enlistment.

Based on the foregoing, and considering the fact that Petitioner has suffered the consequences of a BCD for more than 30 years, the Board concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under other than honorable conditions. Accordingly, the Board concludes that relief in the form of recharacterization of Petitioner's discharge is now 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 19 February 1969 vice the BCD actually issued 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 naval record and the 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.

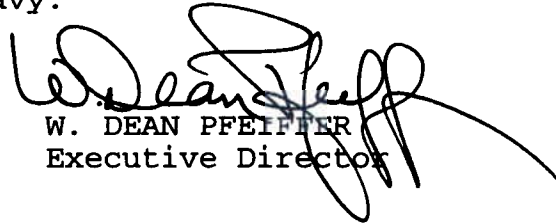
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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 PFEIFFER
Executive Director