



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

TRG
Docket No: 10536-02
23 June 2003

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member in the Marine Corps, filed an application with this Board requesting that his record be corrected to show a better characterization of service than the discharge under other than honorable conditions issued on 17 June 1987.
2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 3 June 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 Petitioner's application 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 Army on 1 March 1971. On 9 February 1972 he was issued a discharge under other than honorable conditions. The Army record is unavailable, however, later statements indicate that he was addicted to heroin while in the Army.
 - d. Petitioner enlisted in the Marine Corps Reserve on 10 May 1977 for six years at age 25. At that time, he did not admit to any prior service. He then served in a satisfactory manner for over eight years. During this period he was promoted to

sergeant. On 17 October 1985 he was honorably discharged for the purpose of enlisting in the Regular Marine Corps.

e. Petitioner enlisted in the Marine Corps on 18 October 1985 for four years in the grade of corporal. On 14 July 1986 he received nonjudicial punishment for disrespect and was reduced in rank to lance corporal. Apparently sometime in early 1986, the fact of his prior Army service and discharge under other than honorable conditions was discovered. On 23 April 1987, he was notified of separation processing due to the fraudulent enlistment. In connection with that processing, he elected to waive the right to have his case heard by an administrative discharge board. Subsequently, the discharge authority directed discharge under other than honorable conditions and he was so discharged on 17 June 1987.

f. Regulations state that, if the fraudulent enlistment involved concealment of a prior separation in which service was not characterized as honorable, the characterization of service shall normally be under other than honorable conditions

g. In his application, Petitioner contends, in effect, that his over eight years of honorable service in the Marine Corps Reserve and his 18 months of satisfactory service in the Marine Corps were mitigating factors.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. It is clear that Petitioner was properly discharged on 17 June 1987. However, given his lengthy period of honorable service in the Marine Corps Reserve, his initial period of good service in the Marine Corps, and the passage of time, the Board concludes that recharacterization of the discharge to general is now warranted.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 17 June 1987 he was issued a general discharge by reason of fraudulent enlistment vice the discharge under other than honorable conditions now of record.

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

c. That the Department of Veterans Affairs be informed upon request, that Petitioner's application was received by the Board on 12 December 2002.

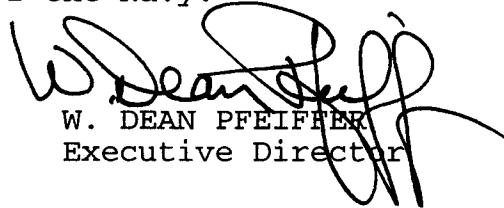
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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 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