



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

SJN  
Docket No: 06602-07  
26 February 2008

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

Subj: REVIEW OF NAVAL RECORD OF [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 a change in his under other than honorable (OTH) discharge.

2. The Board, consisting of Mr. [REDACTED], Ms. [REDACTED] and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 20 February 2008 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, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Navy on 18 December 1958 after seven years of honorable service. During the period from 7 May 1959 to 7 June 1960 he was convicted by three special courts-martial's (SPCM) for periods of unauthorized absence (UA) totaling 140 days, disobedience, and minor assault. Petitioner was sentenced to forfeitures of pay, reductions in paygrade, and confinement at hard labor. Additionally, during this period he received the Combat Action Ribbon and first Good Conduct Medal.

d. Based on this disciplinary record Petitioner was processed for an undesirable discharge by reason of unfitness due to his frequent involvement of a discreditable nature with military authorities. He elected to consult with legal counsel and subsequently requested to have his case heard by a Board of Officers.

e. Subsequently, on 2 September 1960 a Board of Officers unanimously found that he had committed misconduct, recommended that Petitioner receive an undesirable discharge, and that his characterization of service be the type warranted by his service record. Petitioner's commanding officer (CO) concurred with the Board's findings and recommendation and forwarded his case to the discharge authority for review. However, on 21 October 1960, the discharge authority directed that Petitioner be discharged with an OTH discharge due to unfitness. Since that action was less favorable than recommended by the Board of Officers, Navy regulations allowed Petitioner the right to show cause why such action should not be taken.

f. On 25 October 1960, Petitioner exercised his right to submit a statement in an effort to show cause why he should not be discharged with an OTH discharge by reason of unfitness. He stated, in part, that the offenses he committed were not maliciously conceived by him as a means to terminate his enlistment, rather they had been caused by an "affliction" which, though he had controlled for three years earlier, he could not control at that time. On 26 October 1960, Petitioner's CO forwarded his statement still concurring with the Board's findings and recommendation.

g. On 7 November 1960, the separation authority reviewed Petitioner's case, including his show cause statement, and after thorough evaluation of all facts, reaffirmed his previous decision that Petitioner be discharged with an OTH discharge. He received the OTH discharge on 15 November 1960.

h. In his application, Petitioner states that he planned to stay in the Navy but alcohol set him back. He knew he had a problem but could not control his drinking. He mentioned experiencing many instances of alcohol abuse and blackouts caused by his over indulgence of during his enlistment. He now states that he is sober, and has been since 23 October 1975. He also points out that he has helped others with alcohol problems and is very involved with other community programs helping others in need.

CONCLUSION:

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

After careful and conscientious consideration of the entire record, the Board notes that the OTH discharge was proper based on his last period of service that includes convictions by three SPCM's for periods of UA totaling over four months. However, the Board also notes his overall record of military service, to include two periods of prior honorable service with satisfactory conduct and performance for more than seven years. Also, the record clearly states Petitioner had a very serious problem with alcohol and attempted to find help, so it appears to have been his down fall during his last enlistment and, at that time, there were no programs offered by the Navy to help servicemembers with alcohol problems. The Board concludes the record should reflect a general characterization of service.

In view of the foregoing, the Board recommends the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 15 November 1960 he received a general discharge vice the OTH discharge actually issued on that date.

b. That a copy of this report of proceedings be filed in Petitioner's naval record.

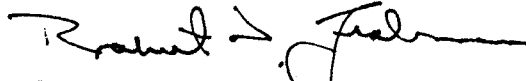
c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received on 20 July 2007.

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

  
BRIAN J. GEORGE  
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