



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

RDZ:ecb
Docket No. 10024-07
11 July 2008

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]

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

Encl: (1) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, applied to this Board requesting that his discharge be upgraded.

2. The Board, consisting of Messrs Dunn, Washington and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 1 July 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. Petitioner's application to the Board was filed in a timely manner.

c. Petitioner enlisted in Marine Corps on 31 August 1951. In October 1952 he reported for combat duty in Korea as a member of the First Marine Division. Petitioner was promoted to corporal (CPL) on 31 January 1953 and on 27 March 1953 while serving as a fire team leader he received shrapnel wounds to his arm and hand while engaged in combat operations against enemy forces. As a result he was awarded the Purple Heart. Petitioner left Korea

in October 1953. He was discharged on 23 December 1953 and reenlisted the following day for a term of six years. At the time of his discharge he held the rank of CPL; had no disciplinary infractions and possessed excellent to outstanding marks in conduct and performance of duty. Petitioner was promoted to sergeant (SGT) on 1 February 1954.

d. Unfortunately between March and September 1954 Petitioner was the subject of four disciplinary actions for three short periods of unauthorized absence (UA) the longest being 14 hours, breaking restriction, wrongful appropriation of a motor vehicle and wrongful possession of a liberty pass. His last act of misconduct which resulted in his receiving an undesirable discharge (UD) occurred on 14 September 1954 when he was convicted by civil authorities of being a "peeping tom."

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that as a matter of clemency Petitioner's request for an upgrade of his UD should be granted. The Board is favorably impressed by the quality of Petitioner's service during his initial enlistment consisting of excellent to outstanding marks in conduct and proficiency, promotion to corporal and his performance in combat operations, culminating in the award of the Purple Heart. Secondly although Petitioner's misconduct was frequent it was for the most part of a minor nature. And finally there is the fact that Petitioner has had to carry the stigma of his UD for nearly 54 years. Combining all these elements with the fact that Petitioner has, for the past 50 years conducted himself as a responsible law abiding citizen the Board believes that the interests of justice would be better served by upgrading his UD to general under honorable conditions.

RECOMMENDATION:

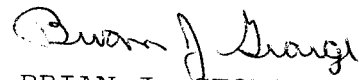
a. That Petitioner's naval record be corrected to show that on 24 October 1954 he received a general discharge in lieu of the undesirable discharge actually issued on that date.

b. That upon request, the Department of Veterans' Affairs be informed that Petitioner's request was received by the Board on 8 November 2007.

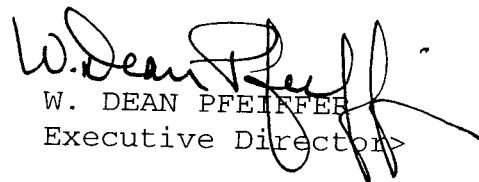
c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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


BRIAN J. GEORGE
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having ensured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the provisions of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director