



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

BAN
Docket No: 04284-08
2 March 2009

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 United States Navy, filed enclosure (1) with this Board requesting, in effect, that his characterization be upgraded from an other than honorable (OTH) discharge to a general discharge.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 February 2009 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 enlisted in the Navy on 8 February 1984 and served without disciplinary incident until 4 January 1985, when he received nonjudicial punishment (NJP) for the illegal use of a controlled substance.

c. Shortly thereafter, on 26 March 1986, Petitioner received another NJP for a positive urinalysis for the illegal use of marijuana, while receiving treatment for your drug and alcohol

abuse. Although Petitioner's commanding officer recommended that he be separated from naval service, he did so with a discharge characterization of general due to his exceptional performance. However, on 5 May 1986, the Naval Personnel Command, approved his separation with an OTH discharge and an RE-4 reenlistment code, and 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.

Although Petitioner did receive two NJP's for illegal drug use, the Board believes that his second NJP was while he was addicted to drugs and receiving treatment. In addition, the Board also believes that the commanding officer's recommendation of a general discharge due to the member's exceptional performance should be honored. Therefore, the Board concludes that a general discharge, based on his service record is authorized and is more appropriate than the OTH discharge now of record.

RECOMMENDATION:


a. That Petitioner's naval record be corrected by changing the OTH discharge assigned on 5 May 1986, to a general discharge on the same date.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that 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.

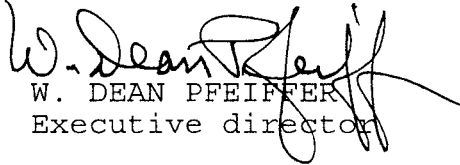
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


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