



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

HD:hd
Docket No. 06584-08
7 October 2008

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

Subj: ~~REDACTED~~
REVIEW OF NAVAL RECORD (RECONSIDERATION)

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

Encl: (1) DD Form 149 dtd 21 Sep 06 w/attachments
(2) BCNR ltr dtd 4 Oct 07 w/enclosure
(3) Counsel's ltr dtd 23 Jun 08 w/attached brief
(4) PERS-832B memo dtd 8 Sep 08
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the undated service record page 13 ("Administrative Remarks") entry reflecting fraudulent enlistment for failure to disclose criminal charges and the page 13 entry dated 2 October 1998 reflecting a telephonic waiver for "DUI and drunk in public." Enclosure (2) shows the Board denied Petitioner's request on 4 October 2007. By enclosure (3), his counsel provided new and material evidence warranting reconsideration.

2. The Board, consisting of Messrs. Fales, J. Hicks and Ivins, reviewed Petitioner's allegations of error and injustice on 2 October 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. In correspondence attached as enclosure (4), the Navy Personnel Command office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that his request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (4), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

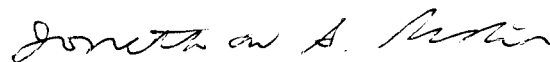
a. That Petitioner's naval record be corrected by removing the undated service record page 13 ("Administrative Remarks") entry reflecting fraudulent enlistment for failure to disclose criminal charges and the page 13 entry dated 2 October 1998 reflecting a telephonic waiver for "DUI and drunk in public."

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.

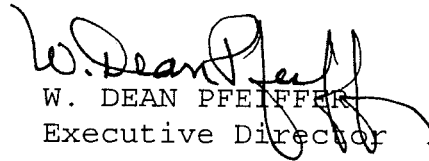
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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


JONATHAN S. RUSKIN
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