



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

JRE  
Docket No. 01234-09  
5 April 2010

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

Subj: FORMER [REDACTED]  
(DECEASED); REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, mother of the deceased former Marine, hereinafter referred to as Subject, filed enclosure (1) with this Board requesting, in effect, that her son's naval record be corrected to show that he was honorably discharged from the Marine Corps.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 18 March 2010 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. Enclosure (1) was filed in a timely manner.

c. Subject enlisted in the Marine Corps on 10 November 2003. He received nonjudicial punishment on 3 November 2005 for misbehavior as a sentinel for drinking alcohol while on duty as sentinel in Iraq, and for drinking on duty. On 7 March 2006, following his return from Iraq, he received nonjudicial punishment for wrongful use of a controlled substance (anabolic

steroids). On 22 February 2006, his company commander recommended that he be discharged by reason of misconduct/drug abuse with a general discharge. On 15 March 2006, his battalion commander recommended that he receive a discharge under other than honorable conditions based, apparently, his admission that in addition to his use of steroids, he had used marijuana on one occasion before deploying to Iraq. Subject was discharged under other than honorable conditions by reason of misconduct/drug abuse on 20 April 2006. He completed about two years and five months of service, and had proficiency and conduct mark averages of 3.7 and 3.3, respectively. Subject died on 18 December 2007.

d. Following Subject's discharge, the Department of Veterans Affairs (VA) determined that his service was under honorable conditions for VA purposes.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner was properly discharged by reason of misconduct/drug abuse with a discharge under other than honorable conditions. The Board concludes further, however, that it would be in the interest of justice to characterize his service as "under honorable conditions", as was recommended by his company commander at the initiation of separation processing. Accordingly, it finds the existence of an injustice warranting the following corrective action:

#### RECOMMENDATION:

a. That Subject's naval record be corrected to show that he was separated from the Marine Corps on 20 April 2006 with a discharge under honorable conditions (general), vice the discharge under other than honorable conditions he actually received on that date.

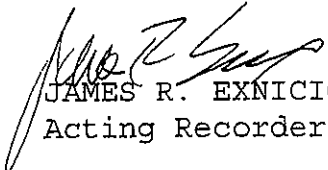
b. That no further relief be granted.

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

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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

  
JAMES R. EXNICIOS  
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