



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

BAN  
Docket No: 03487-09  
20 January 2010

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 that the other than honorable (OTH) characterization of his discharge be changed.

2. The Board, consisting of Messers. [REDACTED] and [REDACTED], and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 13 January 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. Although it appears that 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 enlisted in the Navy in on 29 June 1951. During his period of service, he received nonjudicial punishment on eight separate occasions from 23 November 1951 to 16 December

1954. His offenses were failures to obey a lawful orders and unauthorized absences (minutes late, not making his bed, hitchhiking, and using foul language in the presence of an officer). He was given an administrative discharge board for misconduct due to a pattern of misconduct, and it voted to separate him with an OTH discharge and an RE-4 reenlistment code.

d. In Petitioner's application, he states that it was over 50 years ago when he made poor decisions, was immature and made bad judgment calls. He states that his misconduct was only minor in nature, and that his service record did not warrant an OTH discharge. Additionally, he notes that he honorably served in combat during the Korean War.

CONCLUSION:

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

The Board notes the nature of Petitioner's misconduct and does not condone his infractions. However, the Board's finding is based on his service in combat during the Korean War and the fact that his misconduct was only minor in nature. Based on the foregoing, and considering the fact that he has suffered the consequences of such a discharge for more than 50 years, the Board concludes that no useful purpose is served by continuing to characterize his service as having been under OTH conditions, and recharacterization to a general discharge is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.


RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued a general discharge on 15 February 1955 vice an OTH discharge on the same day.

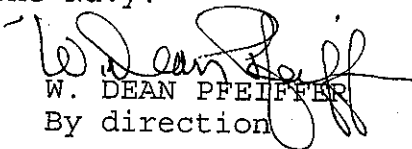
b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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 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  
By direction