



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

RDZ:ecb
Docket No. 04971-09
27 October 2009

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]
[REDACTED]

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

Encl: (1) Subject's naval record
(2) NDRB decision dtd 27 February 2008

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

2. The Board, consisting of Mses. Ballinger, McCormick and Mr. Delorier, reviewed Petitioner's allegations of error and injustice on 20 October 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's application to the Board was filed in a timely manner.

c. Petitioner was separated from the Marine Corps Reserve on 5 November 1999 with an other than honorable discharge (OTH) due to her failure to participate in required drills. Enclosure (2) is a decision of the Navy Discharge Review Board (NDRB) and sets forth the pertinent facts of Petitioner's case.

d. By a vote of 3 to 2 NDRB voted to deny Petitioner's request for a change of her discharge. The dissenting members recommended that Petitioner's discharge be upgrade to general. Their rationale was as follows:

The Applicant had credible, trouble free, and continuous drilling service from January 1996 until April 1998. Only after a well documented family medical situation occurred to the Applicant's mother did her service commitment begin to suffer. This Applicant did not simply run away from her military responsibilities while handling her family's emergency. There is evidence and personal testimony that she tried to work with the drilling unit to uphold her military commitment. This even after quitting college and starting two fulltime jobs in order to help pay expenses for her mother's medical care. Her situation was exacerbated by the fact that she was the only individual, out of two working adult siblings and a father, who was financially contributing to this family emergency. There is no evidence, based on past drilling participation, or doubt that had this Applicant not had this family emergency to shoulder alone, she would have completed her contract with the government in a honorable manner. Additionally, her post-service is quite good. She has committed herself to the field of critical care nursing and is active in her local veteran's organizations. Her service, mitigating circumstances, and post service selflessness deserve of an upgrade to the characterization of service as general (under honorable conditions).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. Specifically the Board concurs with the recommendation of relief of the two dissenting NDRB members that the interests of justice would be better served by upgrading Petitioner's discharge to general under honorable conditions as a matter of clemency. However in view of the fact that she was not excused or legally justified in missing her assigned drills her request for an honorable discharge should be denied.

RECOMMENDATION:

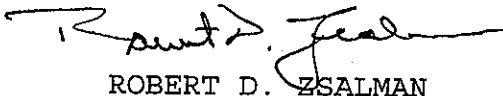
a. That Petitioner's naval record be corrected to show that on 15 January 1999 she received a general discharge in lieu of the other than honorable discharge actually issued on that date.

b. That Petitioner's request for an honorable discharge be denied.

c. That upon request, the Department of Veterans' Affairs be informed that Petitioner's request was received by the Board on 8 May 2009.

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

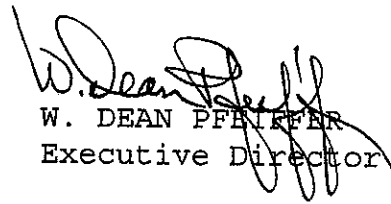
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



ROBERT D. ZSALMAN
Recorder

BRIAN J. GEORGE
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised 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