



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

BJG
Docket No: 7067-10
24 March 2011

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 17 May 10 w/encls
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected by changing the characterization of his other than honorable (OTH) conditions discharge assigned on 14 August 1992 to an honorable discharge.

2. The Board, consisting of Messrs. Gattis, Spain and Zsalman, reviewed allegations of error and injustice on 22 March 2011, and pursuant to its regulations, determined that limited relief should be granted. 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 which were available under existing law and regulations within the Department of the Navy.

b. Petitioner entered active duty in the Marine Corps on 25 April 1989. He received nonjudicial punishment on four occasions for failure to report at the prescribed time, disorderly conduct, and two periods of unauthorized absence totaling just over one day. He participated in Desert Shield/Storm in Southwest Asia, and earned the Combat Action Ribbon (CAR). He was notified that his commanding officer was recommending him for administrative separation with OTH

discharge due to a pattern of misconduct. He waived all of his procedural rights, including his right to an administrative discharge board. On 14 August 1992, he received an OTH discharge due to a pattern of misconduct, and was assigned an RE-4 (not recommended for reenlistment) reentry code.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting upgrading Petitioner's OTH discharge to a general characterization of service. The Board does not condone his misconduct, but notes that all of his offenses were minor in nature. The Board also notes his combat experience, including his CAR, and finds that as a matter of clemency, his discharge should be upgraded.

In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 14 August 1992, he was issued a general discharge, vice the OTH of 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.

d. That the Department of Veterans Affairs be informed that he applied to this Board in May 2010.

e. That the remainder of Petitioner's request be denied.

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


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 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