



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

RDZ:ecb
Docket No. 13634-10
21 March 2011

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) 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 characterization of his discharge be changed.
2. The Board, consisting of Messrs Exnicios, George and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 15 March 2011 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. It appears the enclosure (1) was filed in a timely manner.
 - c. Petitioner enlisted in the Navy on 26 February 1996 and had no disciplinary infractions until 10 November 1997 when he received nonjudicial punishment (NJP) for simple assault. Unfortunately he received a second NJP on 6 March 1998 and a third one on 15 May 1998. His offenses were two periods of unauthorized absence totaling two days, six hours and 15 minutes. Based on the frequency of misconduct

Petitioner was issued an other than honorable discharge (OTH) on 15 June 1998.

d. In his application to the Board attributes his problem to the depression he felt after the deaths of his parents and brother all of which occurred within a nine month time span.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that relief is warranted. Based on the minor nature of Petitioner's offenses, the extenuating circumstances that influenced his misbehavior and the passage of time since his discharge the Board believes that the interests of justice would be better served by upgrading his discharge to general under honorable conditions. Such action is taken as a matter of clemency. More specifically this Board cannot fault Navy officials for issuing Petitioner an OTH in 1998 based on his frequent acts of misconduct.

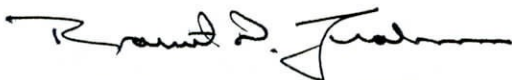
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued a general discharge under honorable conditions on 15 June 1998 in lieu of an other than honorable discharge.

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

c. That upon request the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 22 December 2010.

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.

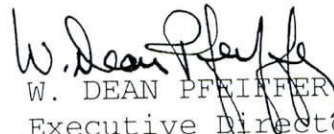


ROBERT D. ZSALMAN
Recorder

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 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
Executive Director