



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

JRE  
Docket No. 294-11  
26 October 2011

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

Subj: [REDACTED]  
[REDACTED] 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 retired by reason of physical disability vice discharged by reason of misconduct.

2. The Board, consisting of Messrs. W. Hicks, Spooner and Swarens, reviewed Petitioner's allegations of error and injustice on 18 March 2010 and, pursuant to its regulations, determined that the limited 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 underwent a pre-separation physical examination on 18 April 2006. Although he was suffering from an adjustment disorder, knee pain, ankle pain and back pain at that time, he was found qualified for separation. He was discharged by reason

of misconduct/drug abuse on 20 April 2006, with a general discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner has failed to demonstrate that Subject was erroneously discharged by reason of misconduct, or that he was unfit for duty by reason of physical disability. Notwithstanding the foregoing, the Board concludes that it would be in the interest of justice, solely as a matter of clemency, to correct Subject's record to show that he was discharged for the best interest of the service vice misconduct.

RECOMMENDATION:

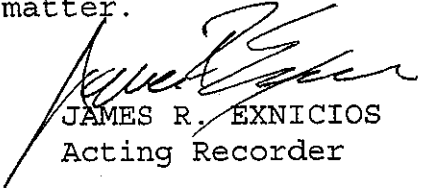
a. That Subject's naval record be corrected to show that on 20 April 2006 he was discharged by reason of best interest of the service vice misconduct.

b. That no further relief be granted.

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

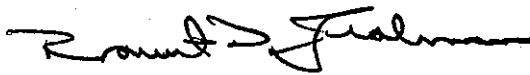
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's 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.



For W. DEAN PFEIFFER