



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL

Docket No: 3480-11
30 January 2012

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[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 of 15 March 1989 be changed to general.

2. The Board, consisting of Mr. Pfeiffer, Mr. Zsalman and Mr. Exnicios, reviewed Petitioner's allegations of error and injustice on 19 January 2012 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 and began a period of active duty on 2 May 1986 at the age of 19. He received

nonjudicial punishment (NJP) on four occasions for two instances of unauthorized absence (UA), two instances of disobeying a lawful order or regulation, and missing ship's movement.

d. On 6 October 1988, Petitioner was notified of pending administrative discharge processing with an OTH discharge due to misconduct (commission of a serious offense). He waived all of his procedural rights, including the right to an administrative discharge board (ADB). On 15 March 1989, he received the OTH discharge for misconduct (commission of a serious offense).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board initially notes his disciplinary infractions and does not condone his misconduct, but finds all the misconduct to be minor in nature. In this regard, and as a matter of clemency, the Board believes that the record should reflect that he was discharged with a general characterization of service vice receiving an OTH discharge. Based on the foregoing, 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 discharged with a general under honorable conditions characterization on 15 March 1989 vice issued the OTH discharge on the same day.

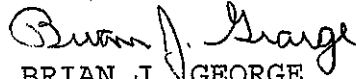
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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.

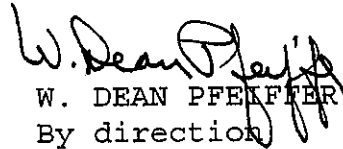
d. That the Department of Veterans Affairs be notified that he applied to this Board on 15 March 2011

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 presented 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
By direction