



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

SJN
Docket No: 00304-13
24 October 2013

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) 10 U.S.C. 654 (Repeal)

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, in effect, that his narrative reason for separation "Article C-10311" be changed to "Secretarial Authority" and undesirable characterization of service be changed to honorable per reference (b).

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and Exnicios, reviewed Petitioner's allegations of error and injustice on 22 October 2013 and, pursuant to its regulations, determined that the partial 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. Petitioner enlisted in the Navy and began a period of active duty on 24 March 1960. On 21 October 1960, he made a statement admitting to participating in homosexual acts. Subsequently, he was administratively processed for separation for the good of the service to avoid trial by court-martial by reason of homosexuality. His commanding officer forwarded his case and the separation authority directed an undesirable discharge. He was so discharged on 30 November 1960.

c. On 16 November 1960, Petitioner signed a Report of Enlistment Performance Evaluation which states, in part, that he had shown his dislike for authority by stating that if he was not transferred, he would assault his supervisor, and shirked his duties on occasions. The report assigned him an overall 2.0 in military behavior.

d. Characterization of service is based in part on conduct marks assigned on a periodic basis. His conduct average was 2.0. At the time of his service, a conduct average of 3.0 was required for a fully honorable characterization of service when being discharged due to convenience of the government. At this time, he is eligible for a general discharge based on his conduct mark average.

e. Reference (b) sets forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with the authority to grant requests to re-characterization the discharge to honorable or general, and change the narrative reason for discharge to "Secretarial Authority", when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of reference (b), the Board concludes that Petitioner's request warrants favorable partial action in the form of relief.

The Board concludes that based upon his record of service that consisted of a little over eight months of service, the fact that there were no aggravating factors or misconduct that resulted in his discharge, and current Department of the Navy policy as established in reference (b), that relief in the form of his characterization of service be changed to general based on his conduct trait average, and narrative reason for separation be changed to "Secretarial Authority". At the time of his service, SPD and reentry codes were not assigned. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received an "general discharge" vice an "undesirable discharge", and that the narrative reason for separation was "Secretarial Authority". It is also directed that he be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).


b. That no further relief be granted.

c. That a copy of this report of proceedings be filed in Petitioner's naval record.

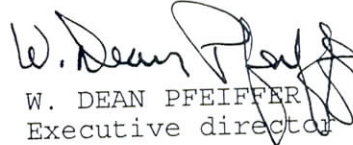
d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 3 January 2013.

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 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