



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

TAL  
Docket No: 3249-13  
21 February 2014

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  
(b) SECNAVINST 1910.4B  
(c) 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 other than honorable (OTH) discharge issued on 10 April 1968 be upgraded to an honorable discharge.

2. The Board, consisting of Mr. Boyd, Mr. Spain, and Mr. Storz, reviewed Petitioner's allegations of error and injustice on 12 February 2014 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 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 13 June 1965. He served without disciplinary incident until 28 November 1967, when he was arrested by San Diego, California, police. He was observed taking part in suspected homosexual activity, however, no action was taken. Petitioner later admitted to having homosexual tendencies and participating in homosexual acts with another military person while on liberty. On 19 February 1968, he submitted a written request for a discharge in order to avoid trial by court-martial. Subsequently, he was administratively processed for unfitness. His commanding officer forwarded his case and the separation authority directed an OTH discharge. He was so discharged on 10 April 1968. He is a Vietnam veteran.

d. The available records indicate that Petitioner's conduct average was 3.7 at the time of his discharge. At that time, an average of 3.0 in conduct was normally required for an honorable characterization of service.

e. Reference (c) 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 change the narrative reason for discharge to "secretarial authority", to re-characterize the discharge to honorable and/or request to change the reentry code to an immediately eligible to reenter category of "RE-1J", 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 (c), the Board concludes that Petitioner's request warrants favorable action in the form of relief.

The Board concludes that based upon his overall record of service, Vietnam service, and the current Department of the Navy policy as established in reference (c), that relief in the form of his narrative reason for separation be changed to "Secretarial Authority", and reentry code be changed to "RE-1J". Additionally, that given the presence of no aggravating factors, and his above average conduct average of 3.6, the Board concludes that an honorable discharge is warranted. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

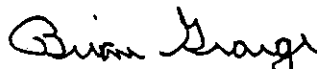
a. That Petitioner's naval record be corrected to show that the narrative reason for separation was "Secretarial Authority" vice "Unfitness", and that he was issued an "RE-1J" vice "RE-4" reentry code on 10 April 1968. Additionally, that he was issued an honorable discharge, vice the OTH discharge actually issued.

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 12 March 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.

  
ROBERT D. ZSALMAN  
Acting Executive director