



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

ELP
Docket No. 3753-01
28 September 2001

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 w/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, applied to this Board requesting, in effect, that his naval record be corrected to show a more favorable discharge than the undesirable discharge issued on 20 May 1968.

2. The Board, consisting of Messrs. Pfeiffer, Novello, and Pauling reviewed Petitioner's allegations of error and injustice on 26 September 2001 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 Petitioner's application to the Board 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 on 25 February 1966 for four years at age 18. His record reflects that upon completion of recruit training he qualified in submarines and was advanced to QM3 (E-4).

d. Petitioner served without incident until 15 January 1968, when he presented himself at the base dispensary in a psychotic-like state and admitted he had used LSD three weeks earlier. The following morning, he was admitted for further evaluation. Later, Petitioner claimed that he was trying to act mentally ill because he wanted out of the Navy. However, he again admitted using LSD on numerous occasions and stated that he had always been a pacifist, and his ideals and philosophies were such that he could not continue in the military. The examining psychiatrist found no evidence of any form of psychosis or underlying neurosis. He noted that Petitioner displayed hostility toward authority figures, lacked a sense of responsibility, had moderately impaired judgment, and was unable to rationalize his behavior. He was diagnosed with a passive-aggressive personality disorder manifested by impaired judgment and reliability, and an indiscriminate use of LSD. Administrative separation was recommended.

e. On 31 January 1968 the commanding officer (CO) recommended that Petitioner be disqualified for submarine duty and notified him that he was being considered for administrative separation under other than honorable conditions by reason of unfitness due to his use of LSD. Petitioner was advised of his procedural rights and waived the right to present his case to an administrative discharge board. Thereafter, the CO recommended discharge under other than honorable conditions by reason of unfitness. In his recommendation, the CO noted that Petitioner's avid desire to be discharged was apparent by the act he perpetrated in an attempt to be released.

f. On 26 March 1968 Petitioner was questioned by a Naval Investigative Service agent regarding his use of narcotics or dangerous drugs. Petitioner made a voluntary statement detailing the times he used marijuana and LSD. He stated that he wanted out of the Navy for his own personal well being since he did not believe in what the Navy stood for.

g. On 9 May 1968, the Chief of Naval Personnel directed an undesirable discharge by reason of unfitness. Petitioner was so discharged on 20 May 1968.

f. The Secretary of Defense (SECDEF) in a memorandum of 13 August 1971, directed the service secretaries to review for recharacterization, in cases initiated prior to 7 July 1971, those other than honorable discharges issued solely on the basis of use of drugs.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes that Petitioner had no disciplinary actions during more than two years of service and the facts and circumstances of his case meet the letter and spirit of SECDEF's memorandum of 13 August 1971. Therefore, the Board concluded that it would be appropriate and just to recharacterize Petitioner's undesirable discharge to a general discharge under honorable conditions.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued a general discharge on 20 May 1968 vice the undesirable discharge actually issued on that date.

b. That a copy of the 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 7 May 2001.

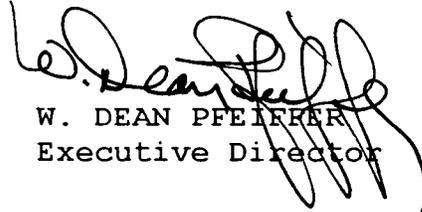
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
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.



W. DEAN PFEIFFER
Executive Director