



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP

Docket No. 7073-99

30 October 2000

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) Case Summary
(2) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that her record be corrected to show a more favorable discharge than the discharge under other than honorable conditions issued on 29 October 1987.

2. The Board, consisting of Messrs. Pfeiffer, Silberman, and Newschafer, reviewed Petitioner's allegations of error and injustice on 25 October 2000 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 22 August 1986 for four years at age 19. The record reflects that she completed

Radioman Class "A" School, was advanced to RMSA (E-2), and subsequently was assigned to duty in Italy. During the month of June 1987, she was counseled twice for lack of attention to detail and her substandard personal behavior.

d. Petitioner was seen in the psychiatry clinic on 6 July 1987. She denied any delusions or hallucinations and voiced dissatisfaction with military life, but did not want to be recommended for administrative separation. The examining psychiatrist noted that psychological testing and the clinical evaluation were consistent with a borderline personality disorder, a condition existing prior to service but not disqualifying for military service. She was returned to full duty and administrative separation was recommended if she could not adjust to military service. Enrollment in a stress management program was also recommended.

e. During the month of July 1987, Petitioner was counseled on four occasions for tardiness, unsatisfactory performance, and her odd behavior on 17 and 30 July 1987.

f. On 11 August 1987 Petitioner was upset and seen again by the psychiatry clinic because she was facing nonjudicial punishment (NJP) for being late for work several times, and wanted to be recommended for administrative separation as soon as possible. Her diagnosis remained unchanged. The examining psychiatrist opined that she was not motivated for psychiatric treatment or for continued military service. Administrative separation was strongly recommended.

g. On 13 August 1987 Petitioner received nonjudicial punishment (NJP), apparently for six instances of failure to report to her appointed place of duty. Punishment imposed consisted of forfeitures of \$329.99 per month for two months, 14 days of restriction, and a suspended reduction in rate to RMSR (E-1). However, the suspended reduction in rate was vacated and ordered executed on 17 August 1987.

h. The record reflects that through the remainder of August and September 1987 she received three more NJPs for five instances of breaking restriction, three instances of absence without authority, and consuming alcohol while in a restricted status. During this period, she was formally counseled regarding her numerous failures to report to work on time and the demonstrated pattern of misconduct evidenced by her repeated

minor violations. She was warned that failure to take corrective action could result in administrative separation under other than honorable conditions.

i. On 9 September 1987, Petitioner was notified that she was being considered for discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct and convenience of the government due to the diagnosed personality disorder. She was advised of her procedural rights, declined to consult with legal counsel, and waived her right to be represented by counsel and to present her case to an administrative discharge board (ADB). Thereafter, the commanding officer (CO) recommended Petitioner's discharge. In his recommendation, the CO noted that she needed constant supervision and was unable to learn from her errors. While assigned to one particular division she began exhibiting more severe behavioral problems, frequent absences, followed by crying spells at work. On 12 October 1987, Commander, Naval Military Personnel Command directed discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. Petitioner was so discharged on 29 October 1987.

j. The Navy Discharge Review Board denied Petitioner's request for upgrade of her discharge on 1 May 1995. This Board also denied a request for upgrade on 28 October 1997. However, she now provides evidence that five months after her discharge she was diagnosed by civilian doctors as a paranoid schizophrenic and has been hospitalized on several occasions because of her psychosis. Petitioner states that when she denied having hallucinations to Navy doctors, she did not know that what she was seeing was not real. She now realizes that her behavior in the Navy was disruptive, but claims there were many times when she did not know whether she was sitting, standing, walking, or talking. She states she knew she was sick and wanted to go home because she thought people were after her and trying to kill her. She asserts that she was misdiagnosed by the Navy.

k. An advisory opinion from the Department of Psychiatry, Naval Medical Center (NMC), Portsmouth, VA, at enclosure (1), states that three different psychiatric evaluations performed prior to Petitioner's discharge, found no evidence of an underlying psychotic process given a lack of psychotic behavior, denial or hallucinations or delusions by the Petitioner. Mental status examinations were also without evidence of psychotic

process and the psychological testing supported a diagnosis of borderline personality disorder.

1. On 12 July 2000, a staff member of the Board contacted one of the case reviewers at NMC Portsmouth since the advisory opinion failed to answer the question of whether Petitioner's schizophrenia, diagnosed five months after her discharge, was a contributing factor in her misconduct and poor performance while on active duty and, if so, whether it was sufficiently mitigating to warrant recharacterizing her discharge. The case reviewer remained steadfast in that there was no evidence of psychotic behavior while on active duty. However, the case reviewer noted that since Petitioner was diagnosed schizophrenic shortly after her discharge, manifestations of a psychotic disorder may have been present but were so subtle they were not noticed in the testing. The case reviewer further opined that although such manifestations may have contributed to her misconduct, they did not excuse her of responsibility for her actions.

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 Petitioner was diagnosed a paranoid schizophrenic five months after she was discharged. It appears to the Board that the odd behavior for which she was counseled and her frequent but minor misconduct for which she received four NJPs, may have occurred during the beginning stages of her illness. While the Board concurs with the advisory opinion that there was no full-blown psychosis at the time of her service, a diagnosis of a psychosis so close after her discharge cannot be ignored. The Board further notes that one of Navy psychiatrists who reviewed this case opined that the early manifestations of a psychotic disorder may have been present, but were so subtle they were not noticed, and these manifestations may have contributed to her misconduct. It therefore appears to the Board that since Petitioner's condition may have been in its initial stage at the time of her service and was a contributing factor in her poor performance and misconduct, the Board believes that such minor misconduct does not warrant the life-long stigma of a discharge under other than honorable conditions. The Board concludes that it would be appropriate and just to recharacterize her discharge to a general discharge under honorable conditions.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she was issued a general discharge by reason of misconduct due to pattern of misconduct on 29 October 1987 vice under other than honorable conditions actually issued on that date.

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 references being made a part of Petitioner's naval record.

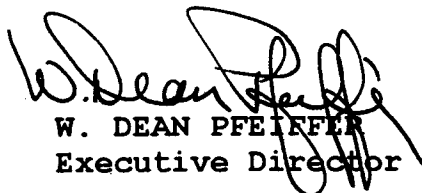
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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