



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

TJR
Docket No: 2976-01
23 October 2001

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

Subj: REVIEW OF NAVAL OF RECORD [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 Navy, applied to this Board requesting that the characterization of his discharge be changed.

2. The Board, consisting of Mr. Kastner, Ms. McCormick, and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 16 October 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 Petitioner's application 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 at age 17 on 9 October 1951 for the duration of his minority. At the time of enlistment, he had completed 10 years of formal education. His test scores were about average.

d. The record reflects that Petitioner served aboard USS BARTON (DD722). He earned the National Defense Service Medal, Korean Service Medal, United Nations Service Medal, and the China Service Medal (extended).

e. During Petitioner's enlistment he received nonjudicial punishment (NJP) on eight occasions and was convicted twice by special court-martial (SPCM) and twice by summary court-martial (SCM). His offenses were accumulation of demerits, six periods of unauthorized absence (UA) totalling 98 days, breaking restriction, fighting, three periods of absence from his appointed place of duty, failure to obey a lawful order, and drinking in public. Confinement adjudged by the court-martial convictions totaled approximately five months.

f. On 5 November 1954 Petitioner received an undesirable discharge by reason of unfitness as evidenced by the 12 disciplinary incidents.

g. In Petitioner's application he contends that he has lead a very productive life since his discharge. He has submitted documentation showing that he was employed by a police department for 28 years. Also included with Petitioner's application are letters of character reference attesting to his good post service conduct.

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 Petitioner's youth and immaturity and limited education at the time of his service, and his post service conduct, especially, his lengthy career in law enforcement.

The Board notes Petitioner's disciplinary incidents and does not condone his misconduct. However, the Board concludes that, although there are multiple disciplinary incidents, many of the offenses are relatively minor. Although his lengthy period of total UA and his periods of confinement are causes for concern, the Board also notes that he served a very considerable portion of his enlistment, and a good part of this service at sea during the Korean Conflict. Accordingly, the Board concludes that relief in the form of 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 Petitioner received a general discharge on 5 November 1954 vice the undesirable discharge actually issued on that same day.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

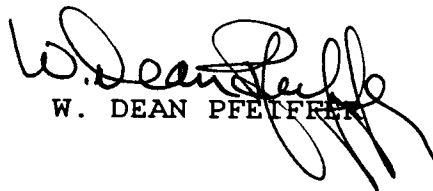
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.



W. DEAN PFEIFFER

Reviewed and approved:



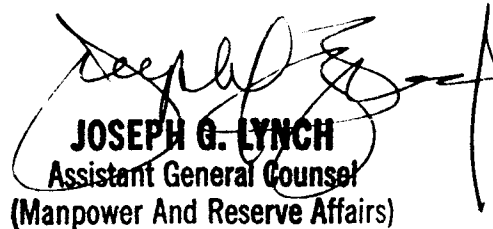
DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

JUL 10 2002

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

The findings of the Board are approved. However, I do not agree with the Board's recommendation to upgrade Subject's undesirable discharge to general. In this regard, I have carefully considered Subject's youth and immaturity, limited education, sea service during the Korean Conflict, various medals, and his good post service conduct. However, I believe these mitigating factors are heavily outweighed by Subject's repetitive misconduct. Accordingly, the Board's recommendation is disapproved, and Subject's request for recharacterization of his discharge is denied.


JOSEPH G. LYNCH
Assistant General Counsel
(Manpower And Reserve Affairs)