



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

WMP  
Docket No. 4958-02  
26 November 2002

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 discharge be upgraded.

2. The Board, consisting of Messrs. Pfeiffer, Exnicios, and Shy, reviewed Petitioner's allegations of error and injustice on 20 November 2002 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 15 August 1988 at age 17. He served without incident until 7 November 1991, when he provided a statement concerning his in-service use of marijuana, however, the ensuing urinalysis was negative for all illegal drugs, including marijuana. On 10 December 1991, he received nonjudicial punishment (NJP) for wrongful use of marijuana. Punishment imposed was a forfeiture of \$423, 45 days of restriction and extra duty, and reduction to paygrade E-2.

d. Petitioner was then notified that administrative separation action was being initiated by reason of misconduct due to drug abuse. He was advised of and waived all procedural rights, except for the right to obtain copies of documents supporting the proposed separation action.

e. On 2 January 1992 the commanding officer forwarded the separation action to the Chief of Naval Personnel (CNP) recommending an other than honorable discharge. On 6 January 1992 CNP directed an other than honorable discharge, and on 8 January 1992 Petitioner was discharged under other than honorable conditions by reason of drug abuse (use) and assigned an RE-4 reenlistment code. At that time, his conduct and proficiency averages of 3.60 and 3.64 respectively would have qualified him for an honorable discharge, had he not been discharged due to misconduct.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board now finds the existence of an injustice warranting corrective action. The Board believes that, although Petitioner clearly qualified for an other than honorable discharge due to drug abuse, the assignment of such characterization was unduly harsh. In this regard, Petitioner served over three years of his four-year enlistment without any instances of misconduct prior to his admission of a one-time usage of marijuana. The Board also notes that the Petitioner's discharge was based solely on his admission without any additional supporting evidence. Accordingly, the Board concludes that a general discharge is more appropriate than an other than honorable discharge and concludes that relief in the form of recharacterization is appropriate.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the record to show that he was issued a general discharge on 8 January 1992 vice the other than honorable discharge actually issued on that date.

b. That 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 29 May 2002.

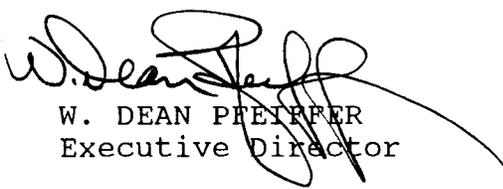
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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