



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

FC
Docket No. 06272-02
10 January 2003

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 type of discharge than the discharge under honorable conditions issued on 6 April 1946.

2. The Board, consisting of Mr. Shy, Mr. Roberts and Ms. LeBlanc reviewed Petitioner's allegations of error and injustice on 8 January 2003 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 3 January 1944 at the age of 17. On 19 April 1944, Petitioner was discharged with an honorable discharge for enlisting without parental consent as a minor.

d. Petitioner was inducted into the United States Navy on 9 January 1945 at the age of 18. On 15 March 1945, he was convicted by summary court-martial (SCM) of a 15 day period of unauthorized absence. The sentence imposed was 15 days confinement and forfeiture of pay totaling \$160.00. On 14 September 1945, Petitioner's record reflects that he was convicted by a second SCM for a period of unauthorized absence of 1 day and 23 hours. The sentence was confinement of one month. On 6 April 1946, Petitioner received a discharge under honorable conditions, the equivalent of a general discharge.

e. At the time of Petitioner's service, more than one summary court-martial disqualified an individual from receiving a fully honorable discharge. Additionally, final averages of 3.25 in conduct and 2.75 in proficiency were required for an honorable discharge. The record reflects that Petitioner's average marks exceeded these requirements.

CONCLUSION:

Upon review and consideration of all evidence of record, the Board concludes that Petitioner's request warrants favorable action. The board notes that notwithstanding the two SCM's, Petitioner's final averages would have qualified him for an honorable discharge. Given these averages, the fact that Petitioner enlisted while underage during wartime, and the relatively minor nature of the offense that resulted in the second summary court-martial, the Board believes that an honorable discharge is warranted.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable discharge on 6 April 1946 vice the discharge actually issued on that date.

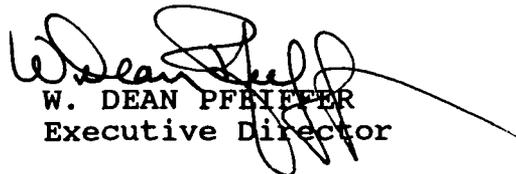
b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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. 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