



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

ELP
Docket No. 6450-01
29 January 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 naval record be corrected to show a more favorable type of discharge than the general discharge issued on 19 December 1952.

2. The Board, consisting of Ms. Davies and Messrs Chapman and McCulloch, reviewed Petitioner's allegations of error and injustice on 24 January 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 Marine Corps on 30 September 1949 for three years at age 17. At that time, he had 11 years formal education. He was advanced to PFC and served without incident until 20 July 1950, when he was convicted by summary court-martial of sleeping on post. He was sentenced to confinement for one month and forfeitures of \$20 per month for four months.

d. Petitioner served in Korea from August 1950 to August 1951, participating in the seizure of Inchon, the capture of Seoul, the campaigns at Wonsan/Hungnam/Chosin, and operations against enemy forces in south and central Korea. During this period he was advanced to CPL (E-4). He received a general discharge on 19 December 1952.

e. At the time of Petitioner's discharge, character of service is based, in part, on conduct and proficiency averages computed from marks assigned during periodic evaluations. Your final conduct and proficiency averages were 3.93 and 5.5, respectively. A minimum average mark of 4.0 in conduct was required for a fully honorable characterization of service.

f. A Federal Bureau of Investigation report on Petitioner, obtained by the Board, showed no post-service convictions.

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's youth and immaturity, limited education, his combat service in Korea during which he was promoted to CPL, and his good post-service conduct. The Board further notes that his summary court-martial conviction occurred prior to his being sent to Korea and that he had no further disciplinary actions. Further, Petitioner's conduct average of 3.93 was fairly close to the 4.0 average required for an honorable discharge. Petitioner placed his life at great peril for his country and the Board believes his sacrifice far outweighs any deficiency in meeting the requirement of a 4.0 conduct average. The Board believes that no useful purpose is served by continuing to stigmatize his service as under honorable conditions. Accordingly, the Board concludes that it would be appropriate and just to recharacterize the general discharge to honorable.

RECOMMENDATION:


a. That Petitioner's naval record be corrected to show that he was honorably discharged by reason of expiration of enlistment on 19 December 1952 vice the general 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 16 August 2001.

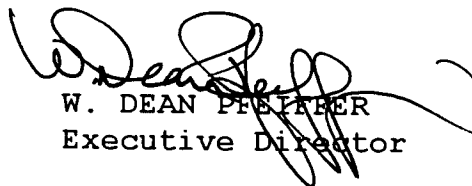
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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