



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

TRG
Docket No: 8309-06
19 February 2008

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

Subj: REVIEW OF NAVAL RECORD OF E [REDACTED]

Ref: (a) Title 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 in the Navy, filed an application with this Board requesting a better characterization of service than the discharge under other than honorable conditions issued on 8 July 1988.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 5 February 2008 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 was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and consider the application on its merits.

c. Petitioner enlisted in the Navy for four years on 20 November 1984 at age 18. He successfully completed initial training and on 13 May 1985 reported to the Naval Regional Dental Center, Branch Clinic, Panama City, Florida. He then served without incident until 15 April 1987. On that date, he received nonjudicial punishment (NJP) for wrongful use of marijuana. The punishment imposed included restriction, extra duty and a reduction to pay grade E-2. At that time, he was counseled and

warned that future drug abuse could lead to discharge under other than honorable conditions (OTH). On 23 February 1988, he received another NJP for use of a controlled substance. The punishment imposed included restriction, extra duty and he was again reduced to pay grade E-2.

d. Based on the foregoing record, Petitioner was transferred with temporary additional duty (TAD) orders to the Naval Coastal Systems Center (NAVCOASTSYSCEN) for discharge processing. On 29 February 1988 he was notified of separation processing by reason of misconduct due to drug abuse. An administrative discharge board (ADB) met on 18 March 1988 and unanimously concluded that he had committed misconduct due to drug abuse but recommended a general discharge. On 25 April 1988 the commanding officer also recommended a general discharge pointing out that Petitioner had been assigned TAD to NAVCOASTSYSCEN. On 3 June 1988, the Navy Military Personnel Command (NMPC) denied the recommendation for discharge because NAVCOASTSYSCEN had no jurisdiction to process Petitioner for discharge because he was TAD to that command.

e. Further discharge processing documentation is not filed in Petitioner's naval record. However, he was apparently again processed for discharge by his parent command, the Branch Dental Clinic, Panama City Florida. The DD Form 214 issued by the Branch Clinic shows that on 8 July 1988 he was issued an OTH discharge by reason of misconduct due to drug abuse.

f. Attached to enclosure (1) is an advisory opinion from NMPC which sets forth the rationale for not allowing individual to be processed for separation by a TAD command. The advisory opinion concludes, in part, as follows:

...The record fails to provide any further documentation leading up to the 8 Jul 1988, DD 214 which reflects an...OTH discharge with SPD (Separation Program Designator) HKK, which means an administrative discharge board was waived. It can be speculated that respondent possibly committed further misconduct, was reprocessed by his parent command, waived another board, and PERS-83 issued a new discharge authority for OTH. Also, some other possibilities may come to mind. However, due to administrative error, either by the commander or PERS-83, there is no proof to support any such hypothesis. Therefore, it is recommended that favorable action on this petition be granted to upgrade the characterization of service to General (Under Honorable Conditions).

CONCLUSION:

Upon review and consideration of all the evidence of record and especially the recommendation contained in the advisory opinion the Board concludes that Petitioner's request warrants favorable action. It is clear that Petitioner presented his case to an ADB and was recommended for a general discharge, which recommendation was overturned on a technicality. This action apparently resulted in reprocessing by his parent command and a recommendation for an OTH discharge. Given the circumstances, the Board agrees with the recommendation contained in the advisory opinion that a general discharge as initially recommended is now appropriate in this case.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reasons for the recharacterization of the discharge.

RECOMMENDATION:

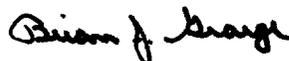
a. That Petitioner's naval record be corrected to show that on 8 July 1988 he was issued a general discharge by reason of misconduct due to drug abuse vice the discharge under other than honorable conditions on that date now of record.

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

c. That the Department of Veterans Affairs be informed upon request that Petitioner's application was received by the Board on 15 September 2006.

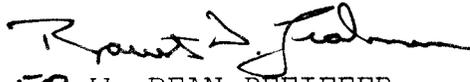
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


BRIAN J. GEORGE
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.

A handwritten signature in black ink, appearing to read "W. Dean Pfeiffer". The signature is written in a cursive style with a large initial "W" and a long, sweeping underline.

FR W. DEAN PFEIFFER
Executive Director