



e. A subsequent medical evaluation found that there was evidence of psychological addiction to drugs, but there was no medical contraindication to Petitioner's discharge. On 25 October 1991 he declined treatment for drug dependency.

f. On 25 October 1991 Petitioner's commanding officer (CO) initiated administrative separation by reason of misconduct due to drug abuse and commission of a serious offense. In connection with this processing, Petitioner waived his right to have his case heard by an administrative discharge board (ADB). On 30 October 1991 the separation authority approved the discharge recommendation and directed an other than honorable discharge by reason of misconduct due to commission of a serious offense.

g. On 31 October 1991 Petitioner began a period of unauthorized absence (UA) that ended on 21 November 1991, a period of about 21 days. However, it appears that no disciplinary action was taken.

h. On 10 December 1991 Petitioner was separated with an other than honorable discharge by reason of misconduct due to commission of a serious offense.

i. In his application, Petitioner states that he has made a verifiable change in his lifestyle and also established a concrete record in the community. Petitioner further states that he is married with three children, all of whom are excellent students. He further states that he has been employed as a U.S. Border Patrol Agent since January 2002 and is active in his community and church. Petitioner states that he would like an honorable discharge in order for he and his family to be eligible for federal and state benefits.

j. With his application, Petitioner provided letters of reference, proof of employment and income, employment history, a work performance report, children's report cards, and letters of recognition. A report from the Federal Bureau of Investigation (FBI) reveals that he was convicted of driving under the influence of alcohol in 1992, but has maintained a clean record since then.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, the Board believes that Petitioner's disciplinary action was proper and his discharge was in accordance with regulations. Therefore, separation by reason of misconduct due to commission of a serious offense was warranted. However, the Board notes that his only disciplinary actions occurred after more than three years of good service during which

he was promoted to third class petty officer. The Board also considered Petitioner's exemplary good post service conduct and achievements in the civilian community. Therefore, as a matter of clemency the Board concludes that Petitioner's separation should be changed to a general discharge.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received a general discharge on 10 December 1991, vice the other than honorable discharge actually issued on that date.

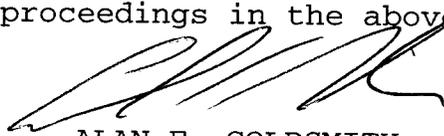
b. That no further relief be granted.

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

d. That upon request, the Veterans Administration be informed that Petitioner's application was received by the Board on 17 January 2007.

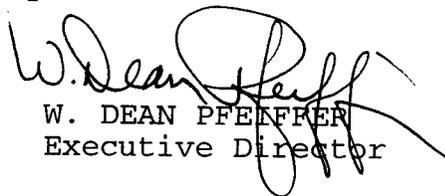
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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 Regulation, 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