



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

SMW
Docket No: 5520-07
28 January 2008

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) Case Summary
(2) 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 an honorable discharge vice the undesirable discharge (UD) he received on 6 April 1954.

2. The Board, consisting of Ms. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 January 2008, and pursuant to its regulations, determined that the partial 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 Petitioner's application 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. On 24 March 1951, Petitioner reenlisted in the Navy at age 20 after a prior period of service.

d. During the period 11 October 1951 to 4 February 1954, Petitioner had five nonjudicial punishments (NJP's) and was convicted by a special court-martial. His offenses included three instances of drunkenness, failure to obey a lawful order, and four instances of unauthorized absence that totaled about 19 days. Punishment awarded by the NJP's resulted in a reduction in rank and did not exceed 14 days of restriction. Punishment

awarded by the court-martial conviction resulted in a reduction in rank and confinement.

e. On 17 February 1954, Petitioner's commanding officer initiated administrative separation by reason of unfitness, and recommended a UD. In connection with this processing, Petitioner acknowledged the separation action and requested retention if assigned to sea duty. On 10 March 1954, the separation authority approved the separation recommendation and directed a UD by reason of unfitness. On 6 April 1954, he was so discharged.

f. On the date of discharge, Petitioner's awards included the Navy Occupation Service Ribbon with Asian and European Clasps, Korean Service Medal with two stars, United Nations Service Medal, and National Defense Service Medal. Petitioner's overall trait and conduct averages were 3.2 and 3.3, respectively.

g. In his application, Petitioner states that he began serving his country at age 15 with the Army Transportation Service and subsequently enlisted in the Navy and served during the Korean War. He further states that three of his sons have retired from the service and his family has served their country since the Civil War. He further states that at the time of discharge he was drinking too much and regrets his decisions.

h. Regulations in effect at the time of Petitioner's discharge authorized a UD if separated by reason of unfitness. Regulations also authorized a general characterization of service if separated by reason of unfitness.

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 actions were properly taken and his discharge was in accordance with regulations. Therefore, separation by reason of unfitness was warranted. However, the Board considers Petitioner's prior period of service, service during the Korean War, awards, and satisfactory overall trait and conduct marks. The Board also finds that Petitioner's offenses were relatively minor as evidenced by the punishment awarded. 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 6 April 1954, vice the UD actually issued on that date.

b. That a copy of 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 19 June 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


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 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