



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

RDZ:ecb
Docket No. 10036-07
29 July 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) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Navy, applied to this Board requesting that his discharge be upgraded to honorable.

2. The Board, consisting of Mr. Blanchard and Mses. Gilbert and Nofziger, reviewed Petitioner's allegations of error and injustice on 22 July 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. Petitioner's application to the Board was filed in a timely manner.

c. Petitioner enlisted in the Navy on 20 July 1998 at age 17 for four years and executed a 24 month extension agreement. He served in an excellent manner during the first part of his enlistment and earned promotion to petty officer third class (E-4). Unfortunately he received nonjudicial punishment (NJP) on 14 February 2002 for failing to obey a lawful order, dereliction

of duty and soliciting another to commit an offense. Petitioner was reduced in rank, ordered to forfeit \$734.00 for two months and was restricted for 45 days. On 21 March 2002 he received NJP for one day of unauthorized absence and missing restricted muster. Based on these two NJPs he was administratively separated with an other than honorable (OTH) discharge due to pattern of misconduct on 19 April 2002.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that partial relief is warranted by upgrading Petitioner's OTH discharge to general under honorable conditions. The Board bases its recommendation on the minor nature of his offenses and excellent record during the first part of his enlistment. Nevertheless his disciplinary record of two NJPs even though for minor offenses does not warrant an honorable discharge.

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 Board's action.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 19 April 2002 he received a general discharge in lieu of the other than honorable actually issued on that date.
 - b. That Petitioner's request for an honorable discharge be denied.
 - c. That upon request the Department of Veterans Affairs' be informed that Petitioner's application was received by the Board on 9 November 2007.
 - d. 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. Zsalmán

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 ensured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the provisions of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

W. Dean Pfeiffer
W. DEAN PFEIFFER
Executive Director