



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

SMW

Docket No: 10064-07  
26 June 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 Reserve, applied to this Board requesting to upgrade the other than honorable (OTH) discharge that was issued on 27 July 1992, to an honorable discharge.

2. The Board, consisting of Ms. [REDACTED] Mr. [REDACTED] and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 25 June 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 20 June 1990, Petitioner enlisted in the Navy Reserve at age 18 and began a period of active service on 26 June 1990.

d. On 6 November 1990, Petitioner began receiving medical treatment for lower back pain. On 11 October 1991, he had nonjudicial punishment (NJP) for disobedience of a lawful order and a brief instance of unauthorized absence. On 18 March 1992, he was apprehended for driving under the influence of alcohol by a military policeman that apparently resulted in an NJP on the same day for resisting apprehension, assault, drunk and disorderly conduct, and being incapacitated for duty.

e. On 30 April 1992, Petitioner's commanding officer initiated administrative separation by reason of misconduct due to commission of a serious offense. In connection with this processing, Petitioner acknowledged that separation could result in an OTH discharge and elected to have his case heard by an administrative discharge board (ADB). On 29 May 1992, an ADB convened and found that he was guilty of misconduct due to commission of a serious offense and recommended an OTH discharge. On 9 July 1992, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to commission of a serious offense. On 27 July 1992, he was so discharged. At that time, his average overall trait and military behavior marks were 3.47 and 3.33, respectively.

f. In his application, Petitioner states that while he was in the Navy he gave his all every day. He states that he regrets his mistakes and believes that the combination of prescribed medication and alcohol attributed to his actions that resulted in his discharge. He further states that since being discharged he has completed an advanced course in electronics, is enrolled in his last class required for completion of his Bachelors of Science Degree in Aviation Management, and volunteers in his community.

g. Regulations authorize an OTH discharge to individuals discharged by reason of misconduct. Regulations also authorize a general characterization of service if separated by reason of misconduct.

#### 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 misconduct was warranted. However, the Board considers Petitioner's overall service record, overall trait

and behavior averages, and finds that his offenses that resulted in separation were from one incident and were relatively minor. Therefore, as a matter of clemency the Board concludes that Petitioner's separation should be changed to a general discharge.

RECOMMENDATION:

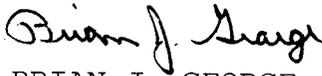
a. That Petitioner's naval record be corrected to show that he received a general discharge on 27 July 1992, vice the OTH discharge actually issued on that date.

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

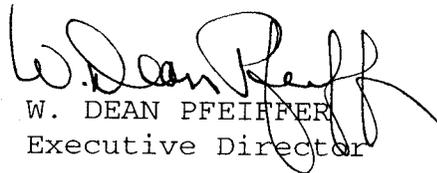
c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 8 November 2007.

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