



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

SMS  
Docket No: 10763-07  
2 September 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 United States Marine Corps, applied to this Board requesting an upgrade of the bad conduct discharge (BCD) that he received on 15 October 1968.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 27 August 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. On 12 November 1974, Petitioner enlisted in the Marine Corps at age 17 with parental consent. At that time, he had completed ten years of education and attained average test scores. On 11 June 1965, he had nonjudicial punishment for a two day period of unauthorized absence (UA).

c. On 15 August 1965, Petitioner reported to Vietnam and served as a machine gunner and ammunition man for more than

nine months and then as a motor vehicle operator for more than eight months. While in Vietnam, he participated in 11 combat operations and was awarded the Vietnam Service Medal, Vietnam Campaign Medal, Presidential Unit Citation, and National Defense Service Medal. On 11 February 1967, he departed Vietnam. At that time his average proficiency and conduct marks were 4.1 and 4.0, respectively. He subsequently failed to comply with orders to report to a stateside command. On 18 May 1967, he was returned to military authorities after being in a UA status for about 61 days, but no disciplinary action was taken.

d. During the period 4 July to 18 August 1967, Petitioner was in a UA status. On 28 September 1967, he received a psychiatric evaluation which stated that he was suffering from a personality disorder that was not amenable to short term psychotherapy. The evaluation concluded by diagnosing him as having an immature personality with passive-aggressive features and finding him fit for duty. On 23 October 1967, he was convicted by a special court-martial (SPCM) of the 45 day period of UA, breaking restriction, and failure to obey a lawful order. During the period 2 January to 26 April 1968, he was in a UA status. On 29 May 1968, he was convicted by a SPCM of the 114 day period of UA. During the court-martial he did not speak or verbally plead guilty. The sentence included confinement at hard labor, forfeitures of pay, and a BCD. On 11 July 1968, he received another psychiatric evaluation that diagnosed him as having an emotionally unstable personality with alcoholic and sociopathic tendencies. On 3 October 1968, a separation physical examination noted that he had an emotionally unstable personality. After the BCD was approved at all levels of review, on 15 October 1968, he was so discharged.

e. In his application, Petitioner states that his problems started while in Vietnam when he began drinking after each patrol and without realizing it he became an alcoholic. He further states that he does not argue that he was at fault for his misconduct, but believes that he had Post-Traumatic Stress Disorder (PTSD) and drank as a way of coping.

#### CONCLUSION:

Upon review and consideration of all evidence of record, the Board concludes that Petitioner's request warrants relief. Specifically, the Board believes that his disciplinary actions were properly taken and was in accordance with regulations. However, the Board considers his 18 months of unblemished

service in Vietnam, participation in numerous combat operations, above average proficiency and conduct mark averages when he departed Vietnam, age at the time of his enlistment, and limited education. Furthermore, the Board believes that his post service Vietnam psychiatric evaluations and change in his conduct support his contention of having difficulties coping. Therefore, as a matter of clemency, the Board concludes that his separation should be changed to a general discharge.

RECOMMENDATION:

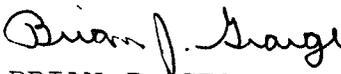
a. That Petitioner's naval record be corrected to show that he received a general discharge on 15 October 1968, vice the BCD actually issued on that date.

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

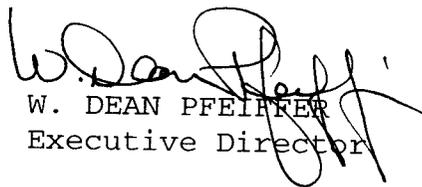
c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 4 December 2007.

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