



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

TRG
Docket No: 10797-07
6 October 2008

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, the widow of a former member of the naval service, filed an application with this Board requesting that her late husband's discharge be recharacterized from general to honorable.
2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 23 September 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. Although it appears that Petitioner's application was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and consider the application on its merits.
 - c. Subject enlisted in the Regular Navy on 23 November 1942 for six years. This enlistment required him to serve on active duty until 22 November 1948. Subsequently, he participated in the bombardment of the Normandy Beaches, the landing in southern France and the assault on Okinawa. On 14 March 1947 he was issued orders to transfer to Naval Station, Guam, but never reported as ordered.
 - d. A subsequent investigation concluded that Subject had fraudulently issued himself orders to a unit in the Los Angeles area. A general court-martial convened on 6 August 1947 and

convicted him of conduct to the prejudice of good order and discipline. The court sentenced him to reduction to apprentice seaman, forfeitures of all pay and allowances, confinement at hard labor for 18 months and a dishonorable discharge. Subsequently, the convening authority remitted the discharge during confinement and gave him six months probation after restoration to duty. On 23 May 1948, he was restored to duty on probation. On 23 November 1948 he was issued a general discharge under honorable conditions.

e. Regulations in effect at the time precluded the issuance of a fully honorable characterization to anyone who was convicted by a general court-martial.

f. Petitioner has submitted evidence that she is being denied a tax benefit by the local city government because her late husband's service was not characterized as fully honorable.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. It is clear that Subject had over four years of excellent wartime service prior to the offense which resulted in the conviction by the general court-martial. Subsequently he completed his probationary period without incident. Although the details of the offense are not available, the Board believes that the original sentence of the court was unduly severe, which is supported by the action taken by the convening authority which allowed him to be restored to duty to complete his enlistment. Given the circumstances and the passage of time, the Board concludes that no useful purpose is now served by the general discharge and it should now be recharacterized to honorable.

The Board further concludes that this Report of Proceedings should be filed in Subject's naval record so that all future reviewers will understand the reasons for the change in the characterization of service.

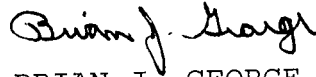
RECOMMENDATION:

a. That Subject's naval record be corrected to show that on 23 November 1948 he was issued an honorable discharge vice the general discharge now of record.

b. That this Report of Proceedings be filed in Subject'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

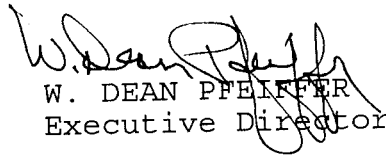
complete record of the Board's proceedings in the above entitled matter.



BRIAN J. GEORGE
Acting Recorder

ROBERT D. ZSALMAN
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 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