



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

SMS

Docket No: 1548-08  
6 November 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 an honorable discharge, vice the other than honorable (OTH) discharge that he received on 16 April 1985.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 November 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 16 July 1982, Petitioner enlisted in the Navy Reserve at age 25 and began a period of active service on 25 August 1982. He then served without incident for more than 26 months. During the period 29 October to 19 November 1984, he was hospitalized for psychiatric care and diagnosed as having a mixed personality disorder with borderline and antisocial features. The evaluation concluded by strongly urging administrative separation due to unsuitability.

On 19 November 1984, he began an unauthorized absence (UA) that ended on 30 November 1984. On 14 December 1984, he had nonjudicial punishment for the UA that resulted in punishment of 30 days in correctional custody. On 8 January 1985, while in correctional custody, he was charged with three instances of disobedience of a lawful order, specifically, failure to stop talking on the telephone, placing an unauthorized telephone call, and failure to comply with an order to get off of the telephone. He was also charged with two instances of disrespect, specifically, ignoring an order to hang up the telephone and responding with a disrespectful question. He was also charged with breach of restraint by placing an unauthorized telephone call and communicating a threat. On 29 March 1985, he requested an other than honorable (OTH) discharge for the good of the service to avoid trial by court-martial for these offenses. On 2 April 1985, the separation authority approved his request and directed an OTH discharge for the good of the service to avoid trial by court-martial. On 16 April 1985, he was so discharged. At that time his overall trait and behavior mark averages were 3.2 and 3.4, respectively.

c. Regulations authorize a service member to request an OTH discharge for the good of the service to avoid trial by court-martial. Regulations also authorize service members who have been found to be unsuitable for further service to be administratively separated by reason of convenience of the government due to unsuitability. In such cases, characterization of service is determined by a service member's overall trait and behavior mark averages. Minimum acceptable average overall trait and behavior marks of 2.7 and 3.0, respectively, are required to form the basis for a fully honorable characterization of service.

d. In his application, Petitioner states in essence that he has been ill and too confused to file a claim before now. He further states that he was an average Sailor with no disciplinary actions until January 1984, when he began having problems and was placed in correctional custody. He further states that while he was in correctional custody, that he was accused of swearing and not getting off of the telephone, and he was not in a state of mind to make a good decision when he was asked if he would agree to request an OTH discharge. He further states that he believes that he should have been discharged when he was diagnosed as having a personality disorder and it is unjust that his mental health problems were not taken into consideration.

e. With Petitioner's application, he provided psychiatric treatment progress notes that he received for manic depression on 17 April 1991. He also provided a letter from his psychiatrist dated 30 August 2005, which states that Petitioner has been a patient of his for about 15 years, first for a bipolar disorder and then through the years his diagnosis was modified to include Post Traumatic Stress Disorder and depression. He concludes that Petitioner wishes to do everything in his power to maintain his physical and emotional health, in order to provide a safe and stable environment for his children.

#### CONCLUSION:

Upon review and consideration of all evidence of record, the Board concludes that Petitioner's request warrants relief beyond what he requested. Specifically, the Board finds that he should have been administratively separated by reason of convenience of the government due to unsuitability, when he was diagnosed as having a personality disorder and found unsuitable for further service. The Board notes his 11 day period of UA following the diagnosis. However, the Board finds that correctional custody awarded by the NJP was not appropriate, given his diagnosis and unsuitability for further service. The Board also finds that he had completed more than 26 months of good service with no disciplinary actions and his overall trait and behavior mark averages met the requirements for a fully honorable characterization of service. Therefore, the Board concludes that his separation should be changed to an honorable discharge by reason of convenience of the government due to unsuitability.

#### RECOMMENDATION:

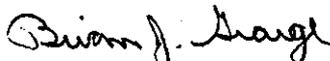
a. That Petitioner's naval record be corrected to show that he received an honorable discharge by reason of convenience of the government due to unsuitability on 16 April 1985, vice the OTH discharge for the good of the service to avoid trial by court-martial actually issued on that date.

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 14 February 2008.

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