



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

Docket No: 2328-08
3 December 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, a former enlisted member of the Marine Corps, filed an application with this Board requesting a better characterization of service than the discharge under other than honorable conditions issued on 21 February 1992.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 18 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. 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. Petitioner enlisted in the Marine Corps on 7 June 1990 at age 17. During the period from 10 February 1991 to 3 January 1992 he received nonjudicial punishment (NJP) on three occasions.

His offenses were two periods of unauthorized absence totaling about four days and three instances of disobedience. The disobedience consisted of failing to turn in magazine pouches, parking his car without a base sticker and exceeding the working day liberty bounds of 85 miles. Additionally he was counseled on three occasions concerning his poor conduct, attitude,

performance and losing his identification card.

d. Based on the foregoing record, he was processed for separation by reason of misconduct due to minor disciplinary infractions. After review, the separation authority approved the recommendation of the chain of command and directed discharge under other than honorable conditions. Petitioner was so discharged on 21 February 1992. The DD Form 214 issued at that time shows the award of the Kuwaiti Liberation Medal, Southwest Asia Medal with two stars and the Combat Action Ribbon.

e. In his application, Petitioner points out that his offenses were very minor and that he performed well while he was overseas and earned the Combat Action Ribbon and other awards. He also claims that he has been a good citizen since discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that although he received NJP on three occasions, the offenses were minor and he earned the Combat Action Ribbon. Given these factors, the Board concludes that he has been adequately punished by having a discharge under other than honorable conditions for more than 16 years and it should now be recharacterized to a general 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 change in the characterization of his service.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 21 February 1992 he was issued a general discharge under honorable conditions vice the discharge under other than honorable conditions now of record.

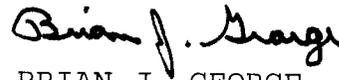
b. That this Report of Proceedings be filed in Petitioner's naval record.

c. That the Department of Veterans Affairs be informed upon request that Petitioner's application was received by the Board on 6 March 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 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