



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

SMS
Docket No: 4949-08
20 February 2009

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

Subj: REVIEW OF NAVAL RECORD OF EX- [REDACTED]
USMC, [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 Marine Corps, applied to this Board requesting an honorable characterization of service vice the general characterization of service that he received on 20 July 1964, when he was released from active duty.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 19 February 2009, 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 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 21 July 1960, Petitioner enlisted in the Marine Corps at age 18. At that time, he had completed twelve years of education and attained average scores on entrance tests. He subsequently reported to The Basic School at Quantico,

Virginia, for duty as a weapons repairman. On 1 June 1961, he had nonjudicial punishment (NJP) for exceeding the speed limit on a company street. On 26 April 1962, he was promoted to pay grade E-3. On 5 February 1963, he departed Quantico and at that time his proficiency and conduct mark averages were both 4.1.

d. On 22 April 1963, Petitioner reported to Okinawa, Japan, for duty as a weapons repairman. During the period 14 May to 30 October 1963, he had NJP on three occasions and a suspended punishment vacated. His offenses included drunk and disorderly conduct, resisting apprehension, conduct bringing discredit upon the armed forces, breaking restriction, and being out of uniform when signing in at 2120 hours. On 31 October 1963, he had NJP, but it was removed as well as the suspended punishment that was vacated on 2 November 1963. On 2 November 1963, he had NJP for failure to go to his appointed place of duty.

e. The record shows that during November 1963, Petitioner wrote a letter to a congressman in which he stated in essence that he was being harassed at his command, had requested mast, spent ten days in confinement as a result of a summary court-martial that was later thrown out due to errors, and had also spoken with his sergeant major requesting to be transferred in order to have an opportunity to earn higher proficiency and conduct marks. On 6 January and 22 April 1964, he had NJP for a seven minute period of unauthorized absence, two instances of disrespect to noncommissioned officers, and disobedience of a lawful order by not turning his radio off and continuing to talk. On 12 May 1964, he departed Okinawa and reported to a stateside duty station on 11 July 1964, to await separation. On 20 July 1964, he was released from active duty under honorable conditions due to the expiration of his enlistment. At that time his proficiency and conduct mark averages were 4.0 and 3.7, respectively. On 20 July 1966, he was separated with a general discharge due to the expiration of his obligated service.

f. Petitioner states that he was issued a general discharge because of low proficiency and conduct marks, and requests an honorable discharge.

g. Regulations authorize issuance of a general characterization of service for members who are released from active duty due to the expiration of their enlistment, and their proficiency and conduct marks averages are less than 3.8 and 4.0, respectively.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. Specifically, the Board finds that his general characterization of service met the requirements established by regulations, but finds that his proficiency and conduct mark averages were both 4.1 when he completed more than two years of duty at The Basic School in Quantico, Virginia. The Board also finds that although he had six NJP's after he reported to Okinawa, his offenses were relatively minor as evidenced by NJP's that he had for a seven minute period of UA, being out of uniform when signing in at night for restriction, and failure to turn off his radio and stop talking. The Board also considers his letter that he wrote to a congressman during November 1963, and finds that his proficiency mark average exceeded the requirement for an honorable characterization of service. Therefore, as a matter of clemency, the Board concludes that his release from active duty and subsequent discharge should be changed to honorable.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was honorably released from active duty on 20 July 1964, vice being released from active duty under honorable conditions on that date.

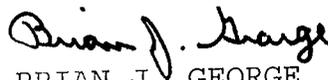
b. That Petitioner's naval record be further corrected to show that he was honorably discharged due to the expiration of his obligated service on 20 July 1966, vice receiving the general discharge on that date.

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

d. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 20 May 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