



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

RDZ:ecb  
Docket No. 09829-08  
21 August 2009

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED]

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

Encl: (1) DD Form 149 with attachments  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, applied to this Board requesting that the characterization of his discharge be changed.
2. The Board, consisting of Mr. Dunn, Genteman and Koman, reviewed Petitioner's allegations of error and injustice on 11 August 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 it appears that enclosure (1) 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. Petitioner enlisted in the Navy on 14 September 1987 at age 19. After serving two years and ten months on active duty he was separated with an other than discharge (OTH) because of

two nonjudicial punishments. The first occurred on 24 March 1989 for dereliction of duty. The second occurred on 29 June 1990 and was based on Petitioner's failure to go to his appointed place of duty.

d. Since his discharge in 1990 Petitioner, who is married and the father of three children, has been gainfully employed and conducted himself in a law abiding manner.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that the interests of justice would be better served by changing Petitioner's OTH to general under honorable conditions. This action is in the nature of clemency and is based on the minor and relatively isolated nature of his offenses. Moreover since his discharge he has been a productive and law abiding member of his community.

In view of the foregoing, following corrective action is warranted.

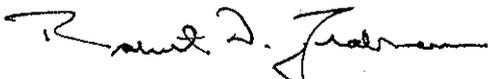
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued a general discharge under honorable conditions on 13 July 1990 vice the other than honorable discharge actually issued on that date.

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

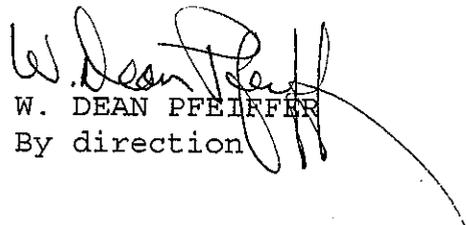
c. That, upon request, the Department of Veterans Affairs be informed the Petitioner's application was received by the Board on 10 October 2008.

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  
By direction