



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

BAN
Docket No: 03552-09
8 March 2010

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) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his characterization of service be upgraded from other than honorable (OTH) to honorable.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED] and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 24 February 2010 and, pursuant to its regulations, determined that the limited 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. Petitioner enlisted in the Marine Corps on 25 July 1968, and served without disciplinary incident until 10 December 1968, when he received nonjudicial punishment (NJP) for an unauthorized absence (UA) in excess of 11 days. Shortly thereafter, on 14 March 1969, he received another NJP for UA in excess of eight days. However, in December 1969, while in Vietnam, he received multiple gunshot wounds and received the Purple Heart medal, and

the Combat Action Ribbon. Once released from the military hospital, he received another NJP on 20 April 1970, for UA in excess of 36 days. He was notified that he was being administratively separated for unfitness and recommended for an OTH discharge. He waived all procedural rights. His conduct and proficiency mark average was 3.8. Therefore, on 20 July 1970, he was separated with an OTH discharge and an RE-4 reenlistment code.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants partial favorable action. Although he received three NJP's for UA, the Board particularly notes that he served in Vietnam and received multiple gunshot wounds as a result of his combat action. The Board believes that clemency is warranted due to his injuries, and the fact that his record reflected a trait mark average of 3.8 in both proficiency and conduct. Therefore, the Board concludes that his characterization of separation should be upgraded from an OTH to general discharge. In view of the above, the Board recommends the following partial corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received a general discharge vice an OTH discharge on 25 July 1968 now of record.

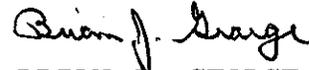
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

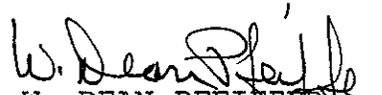
d. That no further relief be granted.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32) Code of Federal Regulations, Section 723.6(c) 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