



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

SJN
Docket No: 04183-09
22 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 Navy, filed enclosure (1) with this Board requesting an upgrade of his other than honorable (OTH) discharge which he received on 27 October 1993.

2. The Board, consisting of Mr. [REDACTED], Ms. [REDACTED], and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 16 March 2010 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 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 19 September 1990 at age 18. On 5 March 1991, he received nonjudicial punishment (NJP) for disobedience. He received a forfeiture of pay and was warned that further misconduct could result in administrative discharge action. On 4 February 1992, a medical entry states, in part, that he was the victim of a homosexual advance. He

reported insomnia, increased anxiety and suicidal thoughts. He was notified of available support. During the period from 11 February 1992 to 8 February 1993 he was seen by medical personnel as a result of the incident and placed on limited duty. On 17 June and 29 July 1993, he received NJP for two periods of unauthorized absence (UA) and disobedience. On 12 August 1993, administrative separation action was initiated by reason of misconduct due to a pattern of misconduct. On 25 October 1993, he received a fourth NJP for UA, insubordinate conduct, and two instances of disobedience. Subsequently, his commanding officer forwarded his case recommending he receive an OTH discharge by reason of misconduct due to a pattern of misconduct. The separation authority concurred and Petitioner was discharged on 27 October 1993.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board, concludes that Petitioner's request warrants favorable action.

In reaching its conclusion, the Board initially notes Petitioner's youth, time in service, including his four NJP's for relatively minor disciplinary infractions. The Board concludes that even though the OTH was proper, his medical issues played a part in his misconduct, and the record should reflect a general characterization of service. In view of the foregoing, the Board recommends the following corrective action:

RECOMMENDATION:

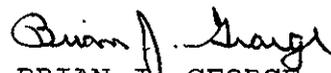
a. That Petitioner's naval record be corrected to show that on 27 October 1993, Petitioner was issued a general characterization of service vice the OTH discharge actually issued on that date.

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 that Petitioner's application was received on 15 April 2009.

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. The foregoing action of the Board is submitted for your review and action.


W. DEAN PFEIFFER