



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

TJR
Docket No: 9671-09
22 July 2010

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

Subj: REVIEW 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 that the characterization of his discharge be changed.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 20 July 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 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 19 March 1956 at the age of 17, and served for about four months without disciplinary incident. However, on 31 July 1956, he received nonjudicial punishment (NJP) for disobedience and disorderly conduct. The punishment imposed was extra duty for two weeks.

d. On 16 December 1959 Petitioner was released from active duty under honorable conditions and transferred to the inactive reserve. On 18 March 1962, upon completion of his obligated service, he was issued a general discharge.

e. At the time of Petitioner's release his erroneously calculated conduct average of 2.93 was below the average mark of 3.0 required for a fully honorable characterization of service. In this regard, a conduct mark of 4.0 was inadvertently omitted from the calculation. Nevertheless, recalculation of the conduct marks reflect that at the time of his release from active duty, his conduct average was actually 3.0.

CONCLUSION:

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

The Board notes the nature of Petitioner's misconduct and does not condone his infractions. However, the Board's finding is based on his length of service and periodic conduct marks. In this regard, the Board notes that his recalculated conduct average was 3.0, and as such met the requirements for a fully honorable characterization of service.

Based on the foregoing the Board concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under honorable conditions, and recharacterization to a fully honorable discharge is appropriate. Accordingly, the Board concludes that relief in the form of recharacterization of his discharge is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to reflect that he was honorably released from active duty on 16 December 1959 vice released under honorable conditions on the same day.

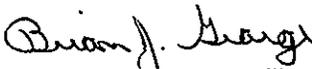
b. That Petitioner's naval record be corrected to reflect that he was honorably discharged on 18 March 1962 vice issued the general discharge under honorable conditions on the same day.

c. 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.

d. 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.

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 PFIEFFER
Executive Director