



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

SJN
Docket No: 09774-09
28 June 2010

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

Subj: REVIEW OF NAVAL OF RECORD [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 his reason for discharge (personality disorder) and RE-3G reenlistment code be changed.

2. The Board, consisting of Ms. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 22 June 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 and began a period of active duty on 28 October 1996 and served without incident until 27 May 2005, when he was the subject of a mental health evaluation after being verbally aggressive in his workcenter. He was seen for anger management issues. The evaluation recommended an expeditious administrative separation due to a personality

disorder that existed prior to his enlistment. The report further stated, in part, that Petitioner manifested a disorder of character, behavior and adaptability that was of such severity as to preclude adequate military service. Found to be a risk for suicide or homicide and because of his maladaptive responses to routine stressors, he was an ongoing risk of danger to himself and others. On 25 July 2005, he self-referred for a second opinion and was diagnosed with a narcissistic personality disorder. The evaluation found him fit for full duty, and recommended that separation was not warranted at that time and that he should be given the opportunity to change his behavior patterns.

d. On 31 October 2005, the Chief, Bureau of Medicine and Surgery, notified the Navy Personnel Command that Petitioner did not meet the established physical standards for the nuclear field duty due to a personality disorder. As a result of this action, he was forced to convert to a different rating. Ten months later, on 10 May 2006, his commanding officer issued him a counseling/warning concerning his diagnosed personality disorder, but deemed him psychiatrically fit for full duty.

e. On 24 July 2006, his request for conversion to a different rating was disapproved and it was recommended that he be administratively separated from the Navy. On 31 August 2006, the Navy Personnel Command directed that he be processed for separation due to a personality disorder. Stating, in part, that when a Sailor is disqualified from the nuclear field, he will be force converted or directed to be processed for administrative separation.

f. On 5 September 2006, he was notified of proposed action for an administrative separation for the convenience of the government due to the diagnosed 2005 personality disorder. He waived his rights to consult counsel and to have his case heard by an administrative discharge board (ADB). However, he did submit a statement in rebuttal of the separation based on a non-valid psychiatric report, stating, in part, that he had proven himself to be a capable follower, leader, had performed the tasks asked of him with no problems, and had been trying to fight the diagnosis of a personality disorder for over 15 months knowing that it would cause problems when he was discharged.

g. Petitioner's commanding officer directed separation and on 13 October 2006 he was honorably discharged, assigned a separation code of HFX and a reenlistment code of RE-3G. The RE-3G reenlistment code and HFX separation code means he had a condition, not a physical disability (personality disorder). At that time, his discharge enlisted evaluation recommended him for advancement and retention with an overall trait average of 3.57.

h. In his application, Petitioner states that the diagnosis of a personality disorder was in error because the second opinion found him fit for full duty. He submitted a psychiatric evaluation from Southwest Counseling Service dated 17 June 2009, which states, in part, that he is not impaired, his cognitive functions are intact, and they did not detect any symptoms of psychosis.

CONCLUSION:

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

Although Petitioner was diagnosed with a personality disorder, the record shows that he was counseled and given the opportunity to correct his behavior patterns. At the time of his notification of administrative processing, he had served without incident for over 14 months since his first mental health evaluation and attained above average evaluations. The Board believes that if it were not for the fact that he was forced to convert to a different rating due to being disqualified from the nuclear field he would not have been discharged. It appears he was making positive improvements with his behavior problems, and may have been able to continue to serve out his obligated service. Finally, the Board concludes that the DD Form 214 erroneously states that he was discharged due to a personality disorder and where in fact he was ineligible for retention due to his forced conversion. Consequently, the narrative reason for separation on the DD Form 214 should be changed to "non-retention". Additionally, his separation code should be changed from HFX to JGH and his reenlistment code from RE-3G to RE-3M, meaning he was not recommended for continued active duty in his current rating.

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

RECOMMENDATION:

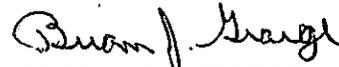
a. That Petitioner's naval record be corrected to show that on 13 October 2006, he was discharged by reason of "non-retention" vice "personality disorder", assigned a separation coded of JGH vice HFX, and reenlistment code be changed to RE-3M vice RE-3G, all now of record.

b. That a copy of this report of proceedings be filed in Petitioner's naval record.

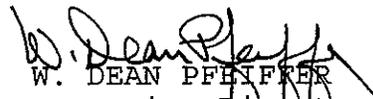
c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received on 14 September 2009.

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. 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