



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

BJG
Docket No: 10527-09
9 July 2010

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

Subj: [REDACTED] 10527-09
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 30 Aug 09 w/encls
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected by changing the characterization of his other than honorable (OTH) discharge issued on 1 December 1967.

2. The Board, consisting of Messrs. [REDACTED], [REDACTED] and [REDACTED], reviewed allegations of error and injustice on 7 July 2010, and pursuant to its regulations, determined that limited relief should be granted. 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 which were available under existing law and regulations within the Department of the Navy.

b. Petitioner served in the Army for more than six years and was honorably discharged. He entered active duty in the Navy on 25 April 1967 and had no disciplinary action. However, on 26 September 1967, he admitted that he had engaged in homosexual activities with unidentified male civilians. He was administratively separated due to unfitness for homosexuality with an OTH discharge. His overall trait average was 3.0, which was sufficiently high to warrant an honorable discharge.

c. Under current standards, homosexuality is still incompatible with naval service. However, if a Sailor is discharged for homosexuality, he receives the type of discharge warranted by his service record.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting upgrading Petitioner's OTH separation to an honorable discharge. Although the Board finds homosexual activities incompatible with naval service, it believes he deserves the type of discharge warranted by his service record. The Board particularly notes his honorable service in the Army, the fact that he had no disciplinary action in the Navy, and that his overall trait average was sufficiently high for an honorable discharge.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by to show that on 1 December 1967, he was issued an honorable discharge, vice the OTH characterization of service of the same date.

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 a copy of this Report of Proceedings be filed in his naval record.

e. That the Department of Veterans Affairs be informed that he applied to this Board in 30 August 2007.

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 Regulations, 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