



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

BAN
Docket No: 00650-10
27 October 2010

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [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 Marine Corps, filed enclosure (1) with this Board requesting that his general characterization of service issued on 23 April 1970, be changed to an honorable discharge.

2. The Board, consisting of Mr. [REDACTED] and Ms. [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 October 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 entered active duty in the Marine Corps on 3 July 1968. During his period of service, he received nonjudicial punishment on 22 January 1969 for an unauthorized absence in excess of 29 days. He claims that he wanted to see his family during the holidays prior to going to Vietnam.

d. On 16 August 1969, while in Vietnam, he was wounded, hospitalized and received a Purple Heart. He was separated on 23 April 1970, with a general characterization of service and an RE-4 reenlistment code due to medical complications of having an enlarged spleen caused by contracting malaria.

e. In Petitioner's application, he apologized and claims that he was young, naïve and stupid. He also states that at the time of the offense, he accepted his punishment, and continued his military service honorably without further misconduct. He states that he is a productive member of his community. Additionally, he provided numerous references from his community in support of his request.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action because of his post-military community service, personal references, and the Purple Heart he received while in combat. Based on the foregoing and considering the fact that he has suffered the consequences of such a discharge for more than 40 years, the Board concludes that no useful purpose is served by continuing to characterize his service under honorable conditions and recharacterization to an honorable 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 show that he was issued an honorable discharge on 23 April 1970 vice a general characterization of service on the same day.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

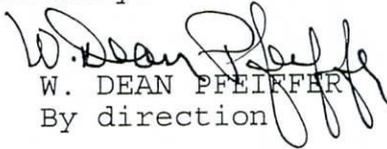
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the board's proceedings in the above entitled matter. 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 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
By direction