



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

BJG
Docket No: 1435-10
19 February 2010

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

Subj: EX [REDACTED]
REVIEW OF NAVAL RECORD (RECONSIDERATION)

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

Encl: (1) Undtd DD Form 149 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 bad conduct discharge (BCD) assigned on 8 March 1946 to a general discharge.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED] and Ms. [REDACTED] reviewed allegations of error and injustice on 18 February 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 entered active duty in the Navy on 3 November 1942. He received four captain's masts, two deck courts, and two summary courts-martial. His offenses included being intoxicated on duty, drinking alcoholic beverages in an out of bounds area, five instances of unauthorized absence (UA) totaling about 30 days, disobedience of lawful orders, missing muster which caused missing draft, and conduct prejudicial to good order and discipline. On 12 July 1945, he was convicted

by general court-martial for a six day period of UA, and awarded the BCD. He was placed on probation and restored to duty after serving five months confinement, but was diagnosed with a personality disorder, which rendered him unfit for further service. He was given the BCD on 8 March 1946 before he could complete his probation.

c. Petitioner had extensive World War II combat duty, which included the invasions of Sicily, Anzio, and establishing the Normandy beachhead. He was wounded in action and received the Purple Heart medal.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting upgrading Petitioner's BCD to a general discharge. The Board does not condone his misconduct, but notes that all of his offenses were minor in nature. The Board particularly notes that he received the BCD for a six day period of UA, was restored to duty in a probationary status, and then was unable to complete it due to his diagnosed personality disorder. The Board also notes his extensive combat experience, including his Purple Heart medal, and finds that as a matter of clemency, his discharge should be upgraded.

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 8 March 1946, he was issued a general discharge, vice the BCD of the same date.

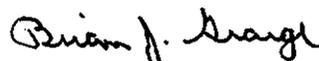
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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 the Department of Veterans Affairs be informed that he applied to this Board in November 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 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