



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

RDZ:ecb
Docket No. 06470-10
22 July 2010

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) Subject's naval record

1. Pursuant to the provisions of reference (a) Petitioner, applied to this Board requesting that the other than honorable discharge (OTH) issued to him on 6 June 1997 be upgraded.

2. The Board, consisting of Messrs Geberth, LaCroix and Silberman, reviewed Petitioner's allegations of error and injustice on 21 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. Petitioner's application to the Board was filed in a timely manner.

c. Petitioner enlisted in the Marine Corps on 25 August 1993 for a term of four years. During nearly three and one half years of service he had no disciplinary infractions and performed his military duties in a superior manner which resulted in his promotion to corporal. Unfortunately in

February of 1997 Petitioner received nonjudicial punishment (NJP) for illegally using steroids that he ingested as a part of weightlifting regimen to increase his physical strength, which he believed would increase his effectiveness in combat. Nevertheless due to the Marine Corps' zero tolerance policy regarding illegal drug usage Petitioner received an OTH on 6 June 1997 after having served three years, nine months and 12 days on a four year enlistment.

d. Since his discharge Petitioner has conducted himself in a commendable manner. Married and the father of two children he has earned an associate's degree in audio engineering and is presently employed as an audio technician in the United States District Court for the Southern District of Florida. Attached to his application is a letter from the Court Administrator attesting to Petitioner's technical skills and outstanding character.

CONCLUSION:

Although the Board can find no error or injustice in the issuance of an OTH in June of 1997 it concluded that the interests of justice would be better served by upgrading Petitioner's discharge to general under honorable conditions. This recommendation is in the nature of clemency and is based in large part on the following factors. First of all the Board takes into account his excellent service during his first three and one half years of service. Secondly there is the nature of the drug used and Petitioner's purpose in using it. Thirdly he was less than three months short of completing a four year enlistment when he was discharged. And finally there is the matter of Petitioner's post service conduct and accomplishments which the Board finds especially noteworthy.

RECOMMENDATION:

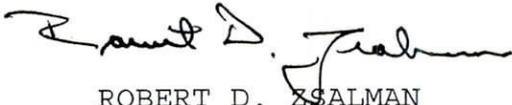
a. That Petitioner's record be corrected to show that he was issued a general discharge under honorable conditions on 6 June 1997 vice an other than honorable discharge.

b. That upon request the Department of Veterans Affairs be informed that Petitioner's application to the Board was received on 15 June 2010.

c. That a copy of this Report of Proceedings be filed in Petitioner's record so that future reviewers will have a clear

understanding of the nature of the Board's action as well as its reasons for this corrective action.

4. 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. ZALMAN
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