



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

RDZ:ecb
Docket No. 09597-10
25 March 2011

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) HQMC Code MMER dtd 30 Aug 2010
(3) 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) and RE-4 reenlistment code issued to him on 21 December 2006 be changed.

2. The Board, consisting of Messrs Bourgeois, Gorenflo and Neuschafer, reviewed Petitioner's allegations of error and injustice on 16 March 2011 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 initially enlisted in the Marine Corps on 10 January 2000 and reenlisted on 10 October 2003 for a term of four years. From the time of his initial enlistment in 2000 until June 2005 Petitioner

performed his military duties in an excellent to outstanding manner and was promoted to sergeant (E-5).

d. Unfortunately Petitioner's performance of duty began to deteriorate and his personal life began to spiral downward when his wife unexpectedly left him taking with her their six month old son. More Specifically, between June 2005 and November 2006 Petitioner received three nonjudicial punishments for a number of relatively non service offenses with the last two nonjudicial punishments being directly attributable to his abuse of alcohol. After his second nonjudicial punishment Petitioner was referred to an alcohol abuse program for treatment. Sadly Petitioner was dropped from the alcohol aftercare program when he was arrested by civil authorities for drunk driving after having rolled his car in a one car accident. This resulted in Petitioner receiving his third nonjudicial punishment. Based on his record of misconduct Petitioner was administratively processed for separation and ultimately issued an OTH and assigned an RE-4 reenlistment code.

e. With his application Petitioner has submitted numerous letters attesting to his excellent post service conduct. Following his discharge Petitioner served for two years in Iraq as a civilian contractor for the Department of Defense, has successfully combated alcohol abuse and actively participates in local church activities such as counseling and guidance sessions.

f. Enclosure (2) is a memorandum from Headquarters Marine Corps recommending that Petitioner's reenlistment code not be changed due to his documented and extensive record of misconduct as well as his substandard performance of duty.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that as a matter of clemency partial relief is warranted. Specifically the Board believes that the interests of justice would be better served by upgrading Petitioner's discharge to general under honorable conditions based on the following factors. First is Petitioner's excellent to outstanding record of service during the period from January 2000 to June 2005. Secondly there are the extenuating and mitigating circumstances that had both an important and adverse influence on his conduct and performance. The third factor is that none of Petitioner's offenses were especially serious in nature. Finally there is Petitioner's excellent post service conduct. Turning its attention to the matter of Petitioner's reenlistment code the Board concurs with the comments and

recommendation of the Headquarters Marine Corps memorandum at enclosure (2) that the RE-4 reenlistment should not be changed.

RECOMMENDATION:

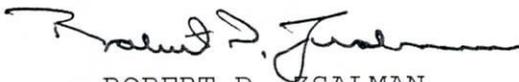
a. That Petitioner's naval record be corrected to show that 21 December 2006 he was issued a general discharge under honorable conditions in lieu of an other than honorable discharge.

b. That Petitioner's request for a change to his reenlistment code be denied.

c. That a copy of this Report of Proceedings be filed in Petitioner's record so that future reviewers of his record will have a complete and better understanding of the Board's corrective action and its underlying reasons.

d. That upon request the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 2 September 2010.

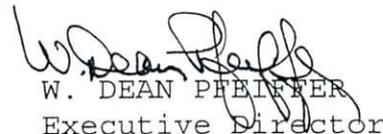
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



ROBERT D. ZSALMAN
Recorder

BRIAN J. GEORGE
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Sections 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the provisions of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director