



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

BAN
Docket No: 11224-10
2 August 2011

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

Subj: [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 United States Navy, filed enclosure (1) with this Board requesting, in effect, that his other than honorable (OTH) discharge of 23 April 1993, be upgraded to an honorable discharge.

2. The Board, consisting of Messrs. Gorenflo, Storz, and Whalen, reviewed Petitioner's allegations of error and injustice on 28 July 2011 and, pursuant to its regulations, determined that partial 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 enlisted in the Navy on 5 May 1992, and served without disciplinary incident until 23 February 1993, when he received nonjudicial punishment (NJP) for two specifications of unauthorized absence and missing ship's movement. Therefore, he was recommended for separation due to commission of a serious offense with a general discharge. He waived his right to consult with counsel and an administrative discharge board.

c. The Chief of Naval Personnel disagreed with Petitioner's commanding officer's recommendation, and on 23 April 1993, he was separated with an other than honorable (OTH) discharge, and an RE-4 reentry code, due to commission of a serious offense.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants partial favorable action.

The Board initially notes that although Petitioner received one NJP, the commanding officer recommended a general discharge. Although the Board does not condone his misconduct, it believes that an OTH discharge is too harsh. Therefore the Board concludes that as a matter of clemency, a general discharge is more appropriate than the OTH discharge now of record. In view of the above, the Board recommends the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the OTH discharge assigned on 23 April 1993, to a general discharge.

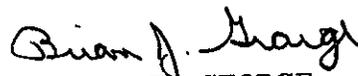
b. That Petitioner's request for corrective action that exceeds the foregoing is denied.

c. 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.

d. 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.

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 proceeding 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 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
Executive Director