



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

TAL  
Docket No: 11444-10  
21 July 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 Navy, filed enclosure (1) with this Board requesting that the bad conduct discharge of 29 November 1946 be changed to a general characterization of service.

2. The Board, consisting of Mr. Hedrick, Mr. Midboe and Mr. Pfeiffer, reviewed Petitioner's allegations of error and injustice on 20 July 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. 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 enlisted in the Navy on 6 January 1942 at the age of 19. While serving on board the USS ELDORADO (AGC-11) he participated in the amphibious assault and occupation of Okinawa, Iwo Jima and the liberation of the Philippines. He was awarded the Philippines Liberation ribbon.

d. He received nonjudicial punishment on three occasions from 19 June 1943 through 3 April 1944 for two instances of disobeying lawful regulations and unauthorized absence (UA) from his unit. On 19 February 1944, he was convicted by summary court-martial (SCM) of UA from his unit for a period of six hours and 45 minutes. On 23 June 1945, he was convicted by SCM of UA from his unit for one day. On 29 October 1945, he was convicted by general court-martial (GCM) of UA from his unit for one day. The sentence imposed was reduction in paygrade, confinement and a bad conduct discharge (BCD). The BCD was suspended for six months. On 30 April 1946, he was again UA from his unit for one day. The BCD was vacated and on 29 November 1946, he was discharged.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board's finding is based on his participation in amphibious assaults, occupation and liberation activities during World War II, and his good post service conduct. In this regard, and as a matter of clemency, the Board believes that the record should reflect that he was discharged under honorable conditions vice receiving a BCD. Based on the foregoing the Board concludes that no useful purpose is served by continuing to characterize his service with a BCD and recharacterization to under honorable conditions 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 a general discharge on 29 November 1946 vice the BCD on the same day.

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.

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

presented 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 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