



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

TAL
Docket No: 11937-10
10 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 Navy, filed enclosure (1) with this Board requesting that the other than honorable (OTH) characterization of his discharge of 24 January 1991 be changed to general.

2. The Board, consisting of Mr. Rothlein, Mr. Spain and Ms. Zivnuska, reviewed Petitioner's allegations of error and injustice on 3 August 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 and began a period of active duty on 22 June 1989 at the age of 17. On 27 September 1989, he was the subject of a psychological evaluation which diagnosed him with an immature personality disorder and found that he was narcissistic and demanding. He was disqualified from submarine duty. On 21 March 1990 a second psychological evaluation diagnosed him with a severe personality disorder not otherwise specified with passive aggressive and narcissistic

features that existed prior to enlistment. The prognosis for honorable completion of his enlistment was considered poor. Administrative discharge processing was strongly recommended. Petitioner received nonjudicial punishment (NJP) on three occasions from 17 February through 28 July 1990, for two instances of unauthorized absence from his unit and larceny of personal property. On 19 September 1990, he was convicted by special court-martial (SPCM) of two instances of insubordinate conduct toward a superior petty officer and two instances of disobeying a lawful written order. The sentence imposed was confinement for 29 days and a forfeiture of pay.

d. On 15 October 1990, he was notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (pattern of misconduct). After consulting with legal counsel, he elected to present his case to an administrative discharge board (ADB). On 8 November 1990, the ADB found that he committed misconduct and recommended that he be separated with an OTH discharge. The separation authority agreed with the findings and recommendation of the ADB and directed the commanding officer to issue the OTH discharge by reason of misconduct due to a pattern of misconduct. On 4 January 1991, he again received NJP for assault. On 24 January 1991, he was separated with the OTH discharge due to misconduct (pattern of misconduct).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board initially notes his disciplinary infractions and does not condone his misconduct, but finds all the misconduct to be the result of his personality disorder and could have been avoided if the recommendation to administratively separate him had been carried out sooner. In this regard, and as a matter of clemency, the Board believes that the record should reflect that he was discharged with a general characterization of service vice receiving an OTH discharge. Based on the foregoing, the Board concludes that no useful purpose is served by continuing to characterize his service as having been under OTH conditions and recharacterization to a general discharge is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action:

RECOMMENDATION:

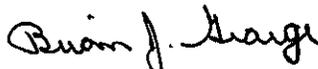
a. That Petitioner's naval record be corrected to show that he was discharged with a general under honorable conditions characterization on 24 January 1991 vice issued the OTH discharge on the same day.

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
By direction