



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

BJG
Docket No: 3024-11
12 December 2011

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 17 Nov 10 w/encls
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected by changing the characterization of his other than honorable (OTH) conditions discharge issued on 2 December 1992 to honorable.

2. The Board, consisting of Messrs. Bourgeois and Gattis and Ms. Zivnuska, reviewed allegations of error and injustice on 6 December 2011, and pursuant to its regulations, determined that limited relief should be granted. 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 which were available under existing law and regulations within the Department of the Navy.

b. Petitioner enlisted in the Marine Corps and entered active duty on 13 October 1988. He received nonjudicial punishment and was convicted by a special court-martial. His offenses included wrongfully discharging a weapon, assault (two specifications), and unlawfully entering a barracks room with the intent of committing a crime. On 2 December 1992, he completed his required active service, was separated with an other than honorable (OTH) characterization of service, and was

transferred to the Marine Corps Reserve. He was not administratively separated, so he had none of the procedural rights he was entitled to in connection with the issuance of an OTH discharge. He was honorably discharged from the reserve component on 16 November 1996.

CONCLUSION:

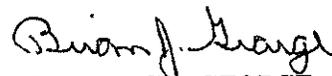
Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting upgrading Petitioner's OTH discharge to a general characterization of service. The Board does not condone his misconduct, and due to it, the Board believes that he does not deserve a fully honorable characterization of service. The Board concludes that an error and injustice occurred in issuing him an OTH characterization of service, and that his discharge should be upgraded to general. In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 2 December 1992, he was issued a general discharge, vice the OTH characterization of service of the same date.
- 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.
- d. That the Department of Veterans Affairs be informed that this Board his application on 18 March 2011.
- e. That the remainder of his request be denied.

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 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 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