



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

SJN
Docket No: 03504-11
2 February 2012

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

Subj: REVIEW OF NAVAL RECORD [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 Marine Corps, filed enclosure (1) with this Board requesting an upgrade of his other than honorable (OTH) discharge, which was issued on 10 March 1969, to a general characterization of service.

2. The Board, consisting of Mr. Zsalman, Mr. Pfeiffer, and Mr. Exnicios, reviewed Petitioner's allegations of error and injustice on 31 January 2012 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 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 Marine Corps and began a period of active duty on 22 February 1966. During the period from 19 July 1966 to 29 February 1968, he was convicted by two special courts-martial (SPCM's) of two periods of unauthorized absence (UA) totaling 173 days, received nonjudicial punishment (NJP) for absence from his appointed place of duty, and was convicted by a general court-martial (GCM) of two periods of UA totaling 229 days. He was sentenced to confinement at hard labor, a forfeiture of pay, and a dishonorable discharge. On 11 April 1968, the convening authority (CA) approved the sentence. However, the execution of all portions of the sentence was suspended for a period of 15 months from the date of the CA's action. On 13 February 1969, a medical board diagnosed Petitioner with a passive aggressive personality disorder, which existed prior to his entry on active duty. It was recommended that he be discharged due to unsuitability. Subsequently, on 10 March 1969, he was discharged under other than honorable (OTH) conditions.

d. Navy regulations state that when service members are being administratively separated due to a personality disorder, their characterization of service should be honorable unless a general characterization of service is warranted.

CONCLUSION:

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

In this regard, the Board notes Petitioner's overall record of military service, including his two SPCM's, NJP, and GCM conviction. The Board notes that his discharge should have been the type warranted by his service record. Accordingly, given his record of service and misconduct, the discharge under OTH conditions was erroneous, and should be changed to a general discharge.

RECOMMENDATION:

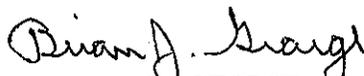
a. That Petitioner's naval record be corrected to show that on 10 March 1969 Petitioner was issued a general discharge vice the OTH, now of record.

b. That a copy of this report of proceedings be filed in Petitioner's naval record.

c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received on 31 March 2011.

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 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