



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

SJN  
Docket No: 03187-12  
26 February 2013

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

Subj: REVIEW NAVAL RECORD OF [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, that was issued on 25 August 1970, to a general characterization of service.

2. The Board, consisting of Messrs. Gorenflo, Lippolis and Ivins, reviewed Petitioner's allegations of error and injustice on 20 February 2013 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 16 January 1968. The Board found that during the period from 22 August 1968 to 3 June 1970, he received three nonjudicial punishments (NJP's) for four periods of unauthorized absence (UA) totaling eight days. He was also

convicted by summary court-martial (SCM) of three specifications of UA totaling nine days. He was sentenced to confinement at hard labor, a forfeiture of pay and a reduction in paygrade. Further, he was counseled and warned that further misconduct could result in administrative discharge action. Subsequently, he was notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After being advised of his procedural rights, he waived the right to an administrative discharge board (ADB). On 24 July 1970, he received a fourth NJP for two days of UA. His case was forwarded and the separation authority directed discharge under OTH conditions by reason of misconduct. He was so discharged on 25 August 1970. He served in Vietnam during the war.

CONCLUSION:

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

In reaching its conclusion, the Board notes Petitioner's youth, Vietnam service, character letters accompanying his application, and post service accomplishments. After careful and conscientious consideration of the entire record, including his four NJP's for relatively minor disciplinary infractions and conviction by SCM, the Board concludes that even though the OTH was proper, based on his overall record of military service, it should reflect a general characterization of service as an act of clemency based on his youth, immaturity and Vietnam service. In view of the foregoing, the Board recommends the following corrective action:

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 25 August 1970, he was issued a general discharge vice the OTH discharge actually issued on that date.
- 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 19 March 2012.

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