



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

SJN
Docket No: 5116-13
24 June 2014

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

Subj: REVIEW OF 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 Navy, filed enclosure (1) with this Board requesting a change in his bad conduct discharge (BCD) received on 24 September 1945.

2. The Board, consisting of Mr. Dixit, Mr. Zsalman, and Ms. Davis, reviewed Petitioner's allegations of error and injustice on 17 June 2014 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 Navy and began a period of active duty on 1 September 1942. The Board found that on 12 December 1944, during a time of war, he was convicted by general court-martial (GCM) of seven days of unauthorized absence (UA) and missing ship's movement. He was sentenced to a

reduction in paygrade, nine months of confinement, and a BCD. On 20 December 1944, the convening authority approved the sentence. However, if his conduct was satisfactory after four months, the remaining period of confinement would be suspended for a 12 month probationary period. He was released from confinement on 19 April 1945, and placed on probation. On 23 April 1945, he went UA and returned on 25 April 1945. At that time, his conduct was found to be unsatisfactory, violating his probation. It was ordered that he be transferred to serve out the remaining portion of his confinement, and on 24 September 1945, he received a BCD after appellate review was completed.

d. In his application, Petitioner states that the offense that resulted in his BCD was not serious enough to warrant it.

CONCLUSION:

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

After careful and conscientious consideration of the entire record, the Board concludes that even though the BCD was proper, based on Petitioner's overall record of military service, satisfactory conduct and performance for more than three years, and his service during World War II, the record should reflect a general characterization of service as an act of clemency. 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 24 September 1945, he received a general discharge vice the BCD actually issued on that date.

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

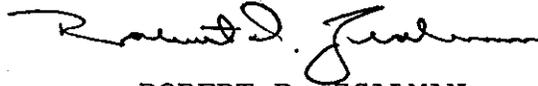
c. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received on 9 May 2013.

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.


ROBERT D. ZSALMAN
Acting Executive Director