



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

TAL
Docket No: 9483-14/
8723-95
10 February 2015

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

Subj: REVIEW OF NAVAL RECORD OF EX- [REDACTED] 5 U.S.C. 552(b) (6)
[REDACTED] 5 U.S.C. 552(b) (6)

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 18 February 1972, be changed to general under honorable conditions.

2. The Board, consisting of [REDACTED] 5 U.S.C. 552(b) (6) and [REDACTED] 5 U.S.C. 552(b) (6) reviewed Petitioner's allegations of error and injustice on 4 February 2015, and pursuant to its regulations, determined that the limited 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 on 20 September 1968, and served in Vietnam from 27 February 1970 to 19 February 1971. Shortly thereafter, on 3 May 1971, he began a 27 day period of unauthorized absence (UA) that was not terminated until 1 June 1971. However, no disciplinary action was taken for this period of UA. On 6 July 1971, he was again in a UA status until apprehended by civil authorities on 1 October 1971. As a result,

he was subsequently convicted of illegal use of drugs and sentenced to confinement for 12 months and a \$400 fine. He was returned to military custody on 2 December 1972.

d. Subsequently Petitioner submitted a written request for an other than honorable discharge in lieu of trial by court-martial for the foregoing 148 day period of UA. His request was granted and on 18 February 1972, he was discharged under other than honorable conditions. On 18 December 1975, Petitioner was issued a clemency discharge based on completion of alternate service.

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. However, the Board notes his service in Vietnam and concludes that as a matter of clemency, 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 on 18 February 1972 he was discharged with a general under honorable conditions characterization of service.

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 no further relief be granted.

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

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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.

5 U.S.C. 552(b) (6)

T. J. Reed
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.

5 U.S.C. 552(b) (6)

ROBERT J. O'NEILL
Executive Director