



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 251-99

1 June 1999

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
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his naval record be corrected to show a more favorable type of discharge than the general discharge issued on 5 July 1960.

2. The Board, consisting of Mr. Pfeiffer, Mr. Ivins, and Ms. Wiley reviewed Petitioner's allegations of error and injustice on 26 May 1999, 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 it appears that Petitioner's application to the Board 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 Naval Reserve on 2 October 1958 for six years at age 18. He was ordered to active duty on 29 October 1959 for a period of two years.

d. Petitioner's record reflects that he was advanced to AA (E-2) and served without incident for more than 15 months. However, during the three month period from February to May 1960 he received a nonjudicial punishment (NJP) and was convicted by a summary court-martial. His offenses consisted of a 12 day period of unauthorized absence (UA) and failure to obey a lawful general regulation by wearing civilian clothes on base as a non-rated man. During this period, the Chief of Naval Personnel denied his request for a hardship discharge.

e. On 12 June 1960, Petitioner missed movement of his ship and was reported UA. He surrendered to naval authorities at a naval hospital on 15 June 1960 and was admitted after a neuropsychiatric consultation with a diagnosis of emotional instability reaction because of much emotional immaturity, fears of going on board ship, claustrophobia, and somnambulism. Physical, neurological, and laboratory examinations were all within normal limits. Petitioner's record reflects on the date of admission he was advanced to AN (E-3).

f. Petitioner received his second NJP on 21 June 1960 and was reduced in rate to AA (E-2) for the foregoing two day period of UA and missing movement.

g. On 22 June 1960, a board of medical survey found him unsuitable for further service by reason of "emotional instability reaction" and recommended that he be discharged from the Navy. He was advised of the findings of the board and requested to be discharged. The recommendations of the board were approved and he received a general discharge by reason of unsuitability on 5 July 1960.

h. Individuals discharged by reason of unsuitability receive the type of discharge warranted by the service record. Character of service is based, in part, on military behavior and overall traits averages which are computed from marks assigned during periodic evaluations. Petitioner's final military behavior and overall traits averages were 3.0 and 2.85, respectively. The minimum average marks required for a fully honorable characterization of the time of discharge were 3.0 in military behavior and 2.7 in overall traits.

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 was only 18 years old with an eighth grade education when he enlisted and his misconduct was relatively minor. Since he was found unsuitable for further service because of medical reasons rather than misconduct, the Board believes he should have received a fully honorable discharge as warranted by his service record. Accordingly, the Board concludes that it would be appropriate and just to recharacterize Petitioner's service to fully honorable.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable discharge by reason of unsuitability on 5 July 1960 vice the discharge under honorable conditions actually issued on that date. This should include the issuance of a new DD Form 214.

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 by the Board on 12 January 1999.

4. 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.

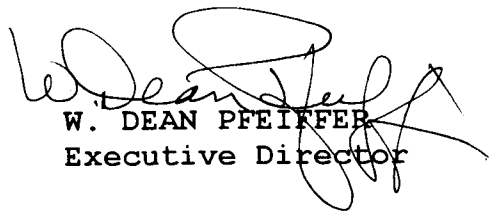
ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
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