



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 4808-01
26 December 2001

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 Marine Corps filed enclosure (1) with this Board requesting that the characterization of his discharge be changed.
2. The Board, consisting of Messrs. Leeman, Lightle, and Morgan, reviewed Petitioner's allegations of error and injustice on 19 December 2001 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 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 on 15 November 1968 at the age of 19.
 - d. Petitioner served for more than two years without incident, including nearly a year of service in Vietnam, when he received the Combat Action Ribbon.

e. On 2 November 1970, after his return from Vietnam Petitioner submitted a written statement in which he admitted to taking lysergic acid diethylamide (LSD) while serving in Vietnam. His statement further requested that he be discharged because he could no longer tolerate the strain of military life. His statement noted, in part, as follows:

I have been having trouble with drugs. I started on drugs while on a tour of Vietnam. When I returned home from overseas I started taking LSD. I was very nervous and (to) try to solve small problems I would turn to LSD, but it would only prolong it and often increased it's seriousness. I have stopped taking these drugs but I have had flashbacks from them. I can no longer cope with the mental strain as in the military. I am requesting discharge from active duty before I end up with more serious problems. I also do not wish to disgrace the service if I should have more flashbacks and do something not in the conduct of a serviceman. I am also not sure if I am capable of staying away from drugs as long as I have the mental strain in the service.

e. On 16 November 1970 the commanding officer noted that Petitioner's record reflected above average proficiency and conduct marks, and contained no record of any disciplinary action. However, the commanding officer recommended Petitioner be discharged by reason of unsuitability as evidenced by his apathetic attitude towards all aspects of military life and his intense desire to be discharged from active duty. On 23 November 1970 the commanding general directed a general discharge by reason of unsuitability.

f. On 1 December 1970 Petitioner was issued a general discharge under honorable conditions by reason of unsuitability. At the time of his discharge Petitioner's conduct and proficiency averages were 4.2 and 4.3, respectively. At the time of Petitioner's discharge, averages of 4.0 in conduct and 3.8 in proficiency were required for a fully honorable characterization of service. Applicable regulations indicated that if characterization in accordance the mark averages was deemed inappropriate, the case should be sent to Headquarters, Marine Corps (HQMC) for a final determination.

g. Petitioner provided with his application a written statement dated 14 March 2000, from a clinical psychologist with the Department of Veterans Affairs (DVA), which notes that he has been diagnosed with a post traumatic stress disorder (PTSD). The psychologist also noted that Petitioner suffered from the symptoms of PTSD during his active duty service in Vietnam.

CONCLUSION:

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

The Board notes the Petitioner's admittance of drug use and does not condone his infractions. However, the Board believes relief is warranted based on Petitioner's length of service, especially his unblemished combat service in Vietnam, and his diagnoses of PTSD. The Board believes that Petitioner's use of drugs was a symptom of the PTSD. The Board further notes Petitioner's sufficiently high conduct and proficiency marks. Further, the commanding general directed a general despite those marks, and the directive indicated that such action should only be taken by HQMC. Based on the foregoing the Board concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under honorable conditions, and recharacterization to a fully honorable 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 he was honorably discharged on 1 December 1970 vice the general discharge under honorable conditions on the same day.

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.

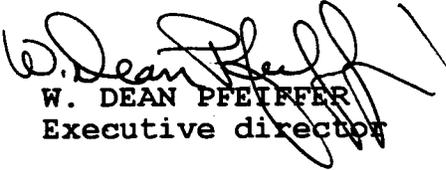
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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 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