



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

TJR  
Docket No: 1485-02  
22 August 2002

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

Subj: REVIEW OF NAVAL OF RECORD [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 that the characterization of his discharge be changed.

2. The Board, consisting of Ms. Gilbert, Ms. McCormick, and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 20 August 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 Navy on 27 January 1941 at age of 17. At the time of Petitioner's enlistment he had completed nine years of formal education.

d. During Petitioner's period of service he received captain's mast (CM) for creating a disturbance while under the influence of alcohol and the destruction of private and personal property. Petitioner was also convicted by summary court-martial (SCM) of theft of a wallet containing \$54 dollars and one day of unauthorized absence (UA). He was sentenced to a \$100 forfeiture of pay and a bad conduct discharge (BCD). Subsequently, the BCD was suspended for 12 months. Unfortunately, on 6 October 1943, the BCD was ordered executed due to an unspecified violation of probation.

e. 26 November 1943, approximately a month before Petitioner's 20th birthday, he received a BCD.

f. In January 1945 Petitioner attempted to reenlist in the Navy but was advised that despite his good post service conduct, which included serving in the Merchant Marines, he was not eligible for military or naval service due to the characterization of his discharge.

g. A verbal report from the Federal Bureau of Investigation (FBI) indicates that Petitioner has no other record of arrests or convictions since his discharge.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board's finding is based on Petitioner's youth and immaturity, limited education, good post service conduct as evidenced by an FBI report. Although the Board does not condone Petitioner's misconduct, it notes that his offenses occurred prior to his 20th birthday and concludes that because of his obvious immaturity, he may have been unable to fully understand the life-long consequences of his misconduct and a punitive discharge. The Board was also favorably impressed by the fact that Petitioner successfully completed two combat patrols aboard the submarine USS GROUPE and by his unblemished post service record.

Based on the foregoing, and considering the fact Petitioner has suffered the consequences of a BCD for nearly 60 years, the Board concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under other than honorable conditions. Accordingly, the Board concludes that relief in the form of recharacterization of Petitioner's discharge is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

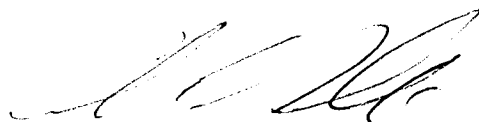
a. That Petitioner's naval record be corrected to show that he was issued a general discharge on 26 November 1943 vice the BCD actually issued on that same day.

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