



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

TRG
Docket No: 1946-02
18 July 2002

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary
(2) 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, in effect, that his record be corrected to show that his service was characterized as honorable upon his release from active duty, and that he received an honorable discharge at the end of his military obligation.

2. The Board, consisting of Mr. Agresti, Mr. Frankfurt and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 16 July 2002 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 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 Reserve on 26 November 1952 at age 18 and reported to extended active duty on 12 June 1953. On 24 June 1953 he was arrested by civil authorities on a charge of larceny of a convertible automobile top. 19 October 1953 he was convicted of this offense, paid restitution, and the sentence was suspended. Concerning the offense, Petitioner stated that when the top on his 1941 Ford convertible blew out, he took a top from a wrecked vehicle in a junkyard and the junkyard owner pressed charges when the theft

was discovered. He regretted his actions and requested retention in the Marine Corps, and this request was approved.

d. On 30 October 1953 Petitioner received nonjudicial punishment for an unauthorized absence of about two days. He then served without incident until he was released from active duty on 11 January 1955 with his service characterized as being under honorable conditions. On 25 November 1960 he was issued a general discharge at the expiration of his military obligation.

e. Under regulations in effect at the time, the characterization of service, upon release from active duty, was normally based on conduct and proficiency averages, which are computed from marks assigned during periodic evaluations. Petitioner's conduct and proficiency averages were 4.0 and 3.9, respectively, which are high enough to support an honorable characterization of service. Under current standards, an individual separated at the expiration of enlistment is entitled to a fully honorable characterization of service unless the marks warrant a characterization of under honorable conditions.

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 two relatively minor offenses and that he was retained on active duty after the larceny conviction, which suggests his command also did not think it was too serious. Further, after the nonjudicial punishment he served in a satisfactory manner for over 14 months. Since his conduct and proficiency marks are high enough to support an honorable characterization of service, the Board concludes that no useful purpose is now served by the current characterization of service and relief is warranted. Therefore, the record should be corrected to show that his service was characterized as honorable on his release from active duty on 11 January 1955 and that he was issued an honorable discharge on 25 November 1960 at the end of his military obligation.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that his service was characterized as honorable when he was released from active duty on 11 January 1955, and that he was issued an honorable discharge at the end of his military obligation on 25 November 1960.

b. That this Report of Proceedings be filed in 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 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