



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

TRG  
Docket No: 7443-01  
28 February 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) DD Form 149 w/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 his record be corrected to show a better characterization of service than the discharge under other than honorable conditions issued on 19 May 1986.

2. The Board, consisting of Mr. Milner, Mr. Cooper and Ms. Nofziger, reviewed Petitioner's allegations of error and injustice on 20 February 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 reenlisted in the Navy on 7 May 1984 at age 24. At that time he had completed four years of active service on his prior enlistment. On 7 April 1986, he received nonjudicial punishment for disobedience of an order to attend a Level III alcohol rehabilitation program. In a performance evaluation for the period 18 July 1985 to 7 April 1986 he was assigned adverse marks of 1.0 in reliability, 2.0 in personal behavior, and 2.8 in three other categories. The overall evaluation was 2.8. The evaluation comments state that alcohol

related incidents had resulted in involvement with civilian police and judicial authorities.

d. Based on Petitioner's disobedience, he was processed for an administrative discharge by reason of misconduct due to commission of a serious offense. In connection with this processing, he elected to waive the right to have his case heard by an administrative discharge board. In his recommendation for separation, the commanding officer stated, in part, as follows:

... He has been diagnosed as alcohol dependent but has vehemently refused treatment. He displays a lack of concern for his own condition as well as a steady downward spiral in performance. He can no longer be relied upon to perform even the simplest of duties.

Subsequently, the commanding officer responded to a request from the discharge authority by confirming that the disobedience was Petitioner's refusal to attend an alcohol rehabilitation program. The commanding officer also stated that Petitioner had acknowledged that he understood the consequences of his refusal. On 19 May 1986 the discharge authority directed discharge under other than honorable conditions by reason of misconduct and he was so discharged that same day.

e. Regulations state that individuals who have been diagnosed as alcohol dependent and refuse treatment are considered to be alcohol rehabilitation failures and can be processed for discharge for that reason. Individuals discharged for this reason must receive either an honorable or general discharge as is warranted by the service record. However, processing for discharge under other than honorable conditions by reason of misconduct is allowed in appropriate cases.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner had a very severe problem with alcohol dependence and could also have been processed for discharge due to alcohol rehabilitation failure. If he had been so processed, he would probably have been issued a general discharge. Given the circumstances, the Board believes that in retrospect, a discharge under other than honorable conditions was too severe. Therefore, the Board concludes that the discharge should now be recharacterized to general. Since he was properly processed for discharge by reason of misconduct, the Board further concludes that a change in the reason for discharge is not warranted.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 19 May 1985 he was issued a general discharge by reason of misconduct vice the discharge under other than honorable conditions actually issued on that date.
- b. That this Report of Proceedings be filed in Petitioner's naval record.
- c. That the Department of Veterans Affairs be informed on request that Petitioner's application was received by the Board on 26 September 2001.
- 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.



FR W. DEAN PFEIFFER  
Executive Director