



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

JRE
Docket No: 7817-01
20 September 2002

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) Psych Specialty memo, 5 Jun 02
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was honorably discharged, vice under other than honorable conditions.

2. The Board, consisting of Messrs. Harrison, Morgan and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 22 August 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 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 served on active duty in the Navy from 28 July 1983 to 24 February 1986, when he was discharged for the good of the service in lieu of trial by court-martial. The request for discharge is not contained in the available records; however, those records indicate that he was absent without authority on four occasions of a total duration of about 34 days during the final six months of his service, and that he was also charged with two specifications of disobedience of lawful orders and missing the movement of a vessel.

d. In correspondence attached as enclosure (2), a designee of the Specialty Leader for Psychiatry advised the Board, in effect, that Petitioner performed well from his entry in the service until late August 1985, when he missed the movement of a vessel. In his opinion, Petitioner's was suffering from a developing mental disorder, which was diagnosed as a bipolar disorder after he was discharged from the Navy. He believes Petitioner's judgment was clouded and his decision making powers compromised by the effects of that illness.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board concludes that the acts of misconduct which resulted in Petitioner's discharge in lieu of trial by court-martial were significantly mitigated by the effects of a mental disorder from which he was apparently suffering at that time, and that his discharge should be upgraded to general on that basis. The Board also concluded, however, that he failed to demonstrate that he lacked mental responsibility for his actions, that his misconduct should be excused, or that he the basis for his discharge should be amended.

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 was discharged from the Navy on 24 February 1986, in lieu of trial by court-martial, with a general discharge under honorable conditions, vice the discharge under other than honorable conditions he actually received on that date.

b. That so much of Petitioner's request as exceed the foregoing be denied.

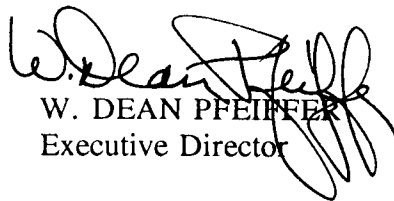
c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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


JAMES R. EXNICIOS
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