



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

WMP
Docket No. 2665-02
21 October 2002

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 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 Marine Corps, applied to this Board requesting changes in the characterization of service.

2. The Board, consisting of Messrs. Pfeiffer, Shy, and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 17 October 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 to the Board 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 25 October 1966 at age 18. He served in Vietnam from 11 May 1967 to 27 May 1968 and participated in numerous combat operations and was awarded the Purple Heart. Petitioner's record reflects that he served without incident until 1 August 1967 when he received nonjudicial punishment (NJP) for disrespect to a non-commissioned officer. The punishment imposed was a forfeiture of \$25 and seven days of extra duty.

d. Petitioner was convicted by summary court-martial on 28 September 1967 of sleeping on post. The punishment imposed was a forfeiture of \$50, 20 days of hard labor without confinement and reduction to private. On 29 September 1967, the convening authority approved the adjudged sentence but suspended the reduction to private for a period of six months.

e. On 30 April 1969 Petitioner was diagnosed with a moderate anxiety reaction and a medical board was convened on 2 May 1969. He was returned to full duty pending final disposition of medical board. On 22 May 1969, the medical board report was forwarded to the Central Physical Evaluation Board (CPEB) for disability evaluation with a diagnosis of a moderate anxiety reaction.

f. On 16 October 1969, the CPEB found Petitioner unfit for duty due to his diagnosed moderate anxiety reaction, and rated him with a 10% disability rating, and directed his separation by reason of a physical disability with severance pay. On 12 November 1969 he was so discharged.

e. Characterization of service is based, in part, on conduct and proficiency averages computed from periodically assigned marks. In order to receive a fully honorable characterization of service, an individual must attain a minimum conduct average of 4.0 and a proficiency average of 3.0. Petitioner's proficiency and conduct averages were 4.2 and 4.2, respectively.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board now finds the existence of an injustice warranting corrective action. The Board believes that although Petitioner committed two instances of misconduct, these infractions covered a relatively short period of his service. Furthermore, the Board concluded that his extensive combat service and his proficiency and conduct marks warrant a fully honorable characterization of service, and are sufficient to outweigh his brief period of misconduct. Accordingly, the Board concludes that a fully honorable characterization of service is more appropriate than under honorable conditions.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received an honorable discharge on 12 November 1969, vice the general discharge actually issued on that date.

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 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.



For W. DEAN PFEIFFER
Executive Director