

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

JRE  
Docket No. 00472-03  
26 August 2003

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD

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

End: (1) Subject's naval

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, applied to this Board requesting that his discharge under other than honorable conditions be upgraded to general.

2. The Board, consisting of Messrs. reviewed Petitioner's allegations of error and injustice on 21 August 2003 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 Petitioner's application was not filed in 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 30 March 1967. He received nonjudicial punishment on 5 April 1967 for being absent from his appointed place of duty. He served in the [REDACTED] from 14 November 1967 to 26 November 1968, participated in seven combat operations, was wounded in action, and received the Purple Heart. Upon his return from [REDACTED], he had three unauthorized absences (UA) for periods of 35, 20 and 148 days. He was convicted by special court-martial on 2 April 1969 of the first period of UA, and was reduced in rank from corporal to lance corporal, and ordered to forfeit \$50.00 pay per month for two months. He was referred for psychiatric evaluation on 16 June 1969, because he was dejected and depressed. His commander reportedly described him as a hardworking, effective Marine, who had good service in [REDACTED]. Upon his return from [REDACTED] he learned that his wife had a boyfriend, and that she no longer loved Petitioner. A week later, she ran off with his two children. Petitioner and his ex-wife divorced in March 1969, but Petitioner remained concerned about the welfare of his children, whom he felt were being abused by his ex-wife. On 14 July 1969, a psychiatrist determined that he was fit for full duty, and gave him a diagnosis of situational maladjustment reaction. On 17 April 1970, he requested discharge for the good of the service in lieu of trial by court-martial for the 148 day UA, which was from 3 November 1969 to 31 March 1970. His request was granted, and he was separated from the Marine Corps on 29 April 1970, with a discharge under other than honorable conditions.

d. Petitioner contends, in effect, that the offenses that resulted in his discharge occurred after he had returned from [REDACTED], where he had extensive combat service and received a Purple Heart. He contends that his offenses were related to the severe personal problems he was facing, his difficulty in readjusting upon his return from [REDACTED], and the effects of undiagnosed posttraumatic stress disorder. He submits numerous letters of character reference, which generally to the effect that he is a good person, that he performed his duties in a brave and outstanding manner while serving in combat, and that he was suffering from undiagnosed posttraumatic stress disorder.

#### CONCLUSION:

Upon review and consideration of the evidence of record, the Board was not persuaded that Petitioner suffered from posttraumatic stress disorder at the time of his discharge from the Navy, or that he was not mentally competent when he committed the offenses that resulted in his discharge for the good of the service. It concludes, however, that in view of his good record of service in [REDACTED], which included participation in numerous combat operations, and his being wounded, and the severe personal problems he faced upon his return from [REDACTED], which undoubtedly had an adverse effect on his judgment, it would be in the interest of justice, as a matter of clemency, to grant his request for a more favorable characterization of his service.

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 on 29 April 1970, he was separated from the Marine Corps for the good of the service in lieu of trial by court-martial, with a general discharge under honorable conditions.

b. That a copy of 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

JAMES R. EXNICIOS  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6e of the Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6), and having ensured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the provisions of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

