



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

Docket No: 6615-03
30 October 2003

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 in the Navy, filed an application with this Board requesting that his record be corrected by upgrading the general discharge he received on 3 November 1946.
2. The Board, consisting of Mr. [REDACTED] Mr. [REDACTED] and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 28 October 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 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 Navy on 28 November 1940 at age 17. He then served without incident until 13 January 1942, when he received nonjudicial punishment for wasting food, using profane language and lying. Later in 1942, he graduated from the Submarine Training School and he subsequently participated in several war patrols aboard the USS GROWLER (SS 215).
 - d. In August 1945, Petitioner was charged with being disrespectful to a superior officer and striking him. A general court-martial convened on 31 August 1945 and convicted Petitioner of only the disrespect offense. The court sentenced him to

reduction to apprentice seaman, confinement at hard labor for three years and a dishonorable discharge. The convening authority mitigated the sentence to confinement at hard labor for six months and a bad conduct discharge, and the discharge was suspended on 12 months probation. He was restored to duty from confinement on 9 March 1946. He then served without incident until he was issued a general discharge on 3 November 1946.

e. Petitioner's case was reviewed by the Board of Review, Discharges and Dismissals (BRDD) in 1947. Concerning the charge of disrespect the BRDD states as follows:

...While on liberty, and in a public cafe, the petitioner approached the table of the officer ... LCDR, and his wife, and addressed himself to the officer's wife on the basis that they had met before. Although the lady denied ever having seen him before and after the officer had asked him to leave and avoid any trouble, the petitioner persisted in his advances saying "We're not aboard ship now. Your rate does not mean a damn thing now", and invited the officer outside. It was not until after the officer had called the Shore Patrol and the Shore Patrol had actually arrived that petitioner left the table. ...

f. Petitioner states in his application, in effect, that this was a minor offense and the court ignored his good record, which included about three years in the war zone. Concerning the incident which led to his court-martial, he states that he was in a bar celebrating the victory over Japan, the woman involved was not the officer's wife and, in effect, that the incident was blown completely out of proportion. He further states that he has been very active in the Los Angeles chapter of the U. S. Submarine Veterans of World War II and has published a chapter newsletter for 20 years at his own expense. He has submitted newspaper clippings concerning the memorial he built in his back yard to honor the submariners killed during World War II.

g. Regulations in effect at the time precluded the issuance of a fully honorable discharge to any Sailor convicted by a general court-martial.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board believes that Petitioner's lengthy period of good wartime service, the nature of the offense that led to the general court-martial conviction, and his post war participation in a World War II veterans group are mitigating factors. Since

the individuals involved may have been intoxicated, it appears that the sentence imposed was very severe. Therefore, the Board concludes that no useful purpose is served by the general discharge and it should now be recharacterized to honorable.


RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 3 November 1946 he was issued an honorable discharge vice the general discharge now of record.

b. That this Report of Proceedings be filed in Petitioner's naval record.

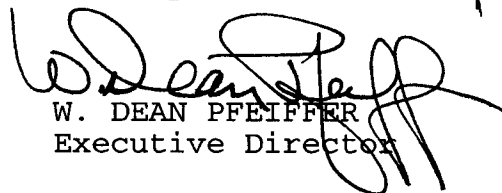
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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