



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

Docket No. 00044-10
20 July 2010

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]
[REDACTED]

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

Encl: (1) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, applied to this Board requesting that the other than honorable discharge (OTH) issued to him on 10 February 2006 be upgraded.

2. The Board, consisting of Messrs [REDACTED]
[REDACTED] reviewed Petitioner's allegations of error and injustice on 12 July 2010 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. Petitioner's application to the Board was filed in a timely manner.

c. Petitioner enlisted in the Marine Corps for a term of five years on 30 October 2001. For over three and a half years Petitioner's service was commendable earning him excellent marks in proficiency and conduct as well as a promotion to corporal. Of particular note Petitioner was individually cited for superior performance of duty as a helicopter mechanic in Iraq in 2004 which directly contributed to the success of combat operations in Najah and Fallujah.

d. Unfortunately between March and September of 2005 Petitioner received two nonjudicial punishments (NJP) and two civil convictions. His military offenses consisted of unlawfully consuming alcohol in bachelor enlisted quarters (BEQ) and providing alcohol to an underage Marine. In civil court he was convicted of driving under the influence of alcohol (DUI) and reckless driving. Based on these incidents he was issued an OTH after serving four years, three months and eleven days on a five year enlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that as a matter of clemency Petitioner's OTH should be upgraded to general under honorable conditions. The Board's recommendation is based on Petitioner's excellent record during his first three and a half years of service which included an individual citation for superior performance of duty during combat operations in Iraq. The Board also noted that although Petitioner's misconduct was frequent none of his offenses were of a serious nature.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reasons for the Board's action.

RECOMMENDATION:

a. That Petitioner's record be corrected to show that he was issued a general discharge under honorable conditions on 10 February 2006 vice the other than honorable discharge that was initially issued on that date.

b. That upon request the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 31 December 2009.

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

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