



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

TAL
Docket No: 5850-10
9 March 2011

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

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

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

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting that the other than honorable (OTH) characterization of her discharge of 28 June 1993 be changed to general.

2. The Board, consisting of Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 2 March 2011 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 enlisted in the Navy and began a period of active duty on 9 September 1992 at the age of 19. On 21 April 1993, she received nonjudicial punishment (NJP) for two instances of unauthorized absence (UA) from her unit for one day and failure to go to her appointed place of duty, disobeying a lawful order to attend remedial physical training and wrongful appropriation of a library book.

d. On 22 April 1993, Petitioner was notified of pending administrative discharge processing with an OTH discharge due to misconduct (commission of a serious offense). She waived all of her procedural rights, including the right to an administrative discharge board (ADB). On 28 June 1993, she received the OTH discharge for misconduct (commission of a serious offense).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board initially notes her disciplinary infractions and does not condone her misconduct, but finds all the misconduct to be minor in nature. In this regard, and as a matter of clemency, the Board believes that the record should reflect that she was discharged with a general characterization of service vice receiving an OTH discharge. Based on the foregoing, the Board concludes that no useful purpose is served by continuing to characterize her service as having been under OTH conditions and recharacterization to a general discharge is appropriate.

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 she was discharged with a general under honorable conditions on 28 June 1993 vice issued the OTH discharge on the same day.

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. 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 presented 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


BRIAN J. GEORGE
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 Regulation, 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
By direction