



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

BJG

Docket No: ~~10538-10~~ 7273-11

21 July 2011

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

Subj: [REDACTED]

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

Encl: (1) DD Form 149 dtd 14 Sep 10 w/encls
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected by changing the characterization of his other than honorable (OTH) conditions discharge issued on 22 August 1978 to general.

2. The Board, consisting of Messrs. Gattis, W. Hicks, and Mann, reviewed allegations of error and injustice on 19 July 2011, and pursuant to its regulations, determined that relief should be granted. 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 which were available under existing law and regulations within the Department of the Navy.

b. Petitioner enlisted in the Navy and entered active duty on 13 December 1977. He received nonjudicial punishment on one occasion for disobeying a lawful order and absence from his appointed place of duty. On 11 May 1978, he was diagnosed with an immature personality disorder with passive-aggressive features which interfered with the performance of his duties. It was recommended that he be administratively separated with a type warranted by his service record characterization of

service. On 22 August 1978, he received an OTH characterization of service due to unsuitability.

c. Characterization of service is based, in part, on trait marks assigned on a periodic basis. His overall trait mark average was 2.75. An overall trait mark average of 3.0 was required for a fully honorable characterization of service.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting upgrading Petitioner's OTH discharge to a general characterization of service. The Board does not condone his misconduct, but notes that both of his offenses were minor in nature. However, due to his misconduct and insufficiently overall trait mark average, the Board believes that he does not deserve a fully honorable characterization of service. The Board concludes that an error was made in issuing him an OTH characterization of service, and that his discharge should be upgraded to general. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 22 August 1978, he was issued a general discharge, vice the OTH characterization of service of the same date.

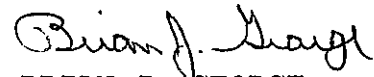
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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.


d. That the Department of Veterans Affairs be informed that he applied to this Board on 14 September 2010.

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 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


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 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