



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No: 7363-16
NOV 28 2017

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USN,
[REDACTED]

Ref: (a) 10 U.S.C. §1552
(b) OPNAVINST 1160.5C

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 a change in his general under honorable conditions discharge.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 September 2017 and, pursuant to its regulations, determined that the partial corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's 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 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 11 February 1991. During the period from 31 December 1991 to 15 December 1992, he received three nonjudicial punishments (NJPs) for driving on base while drunk, failure to go to his appointed place of duty and soliciting others to commit an offense. Subsequently, Petitioner was processed for separation due to a pattern of misconduct and misconduct due to commission of a serious offense. After being afforded all of his procedural rights, his case was forwarded to the

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[REDACTED]

separation authority with the recommendation that he receive an other than honorable (OTH) discharge. On 28 December 1992, the separation authority directed that Petitioner be separated due to a pattern of misconduct, with an OTH discharge. He received his OTH discharge on 5 February 1993.

CONCLUSION:

The Board initially notes Petitioner's NJP's and does not condone his misconduct. The Board also notes that there is no provision in law or regulations that allows for re-characterization of a discharge automatically after ten years, due solely to the passage of time with post service good behavior. However, the Board concludes that based on his record of service, overall conduct average of 3.5, and the nature of the offenses, his request warrants partial favorable action by changing his characterization of service to general under honorable conditions.

In view of the foregoing, the Board directs the following corrective action.

RECOMMEND

Petitioner's naval record be corrected to show that on 5 February 1993, he was discharged with a general under honorable conditions characterization of service.

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) be issued to the Petitioner.

No further relief be granted.

A copy of this report of proceedings be filed in Petitioner's naval record.

Upon request, the Department of Veterans Affairs be informed that Petitioner's application was received on 16 August 2016.

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.

[REDACTED]
Recorder

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[REDACTED]

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.

[REDACTED]
Executive director