



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

[REDACTED]
Docket No: 6296-17
OCT 09 2017

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

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

Ref: (a) 10 U.S.C. §1552
(b) BUPERS Manual Art. C-10311

Encl: (1) DD Form 149 w/attachments
(2) Notification of Intent to Process for an Administrative Discharge Under Honorable Conditions of 9 July 68
(3) Naval Message of 7 August 68

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting his characterization of service be upgraded to general, under honorable conditions. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 31 August 2017 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, relevant portions of his naval record, 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 enlisted in the Navy on 22 January 1965. On 7 June 1966 he received nonjudicial punishment (NJP) for an unauthorized absence (UA) of five days. On 12 August 1966, he received a second NJP for a 23-hour UA and disobeying a lawful order. On 10 January 1968, Petitioner was convicted by special court-martial (SPCM) of UA lasting 28 days. On 3 June 1968, he received a third NJP for a two-hour UA. On 12 June 1968, Petitioner was convicted by summary court-martial (SCM) of larceny. On 2 July 1968, he received a fourth NJP for improperly disposing of shipboard oxygen canisters. Additionally, between March 1966 and his discharge in August 1968, the Navy received at least eleven letters from Petitioner's creditors.

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[REDACTED]

c. In view of the foregoing, administrative discharge action was initiated. Enclosure (2) notified Petitioner he was "being processed for an administrative discharge under honorable conditions" because of his unfitness due to his continued involvement of a disreputable nature with military authorities and unsuitability due to financial irresponsibility. After Petitioner waived his procedural rights, his Commanding Officer recommended he receive a general, under honorable conditions, discharge. The separation authority, in enclosure (3), changed the characterization of service to undesirable. The record does not indicate that the command or Petitioner was notified when the separation authority downgraded the characterization of service to undesirable. Therefore, Petitioner had not been notified he could receive a characterization below "under honorable conditions" when he was discharged on 15 August 1968.

d. Reference (b) requires the following signed statement when an individual is being processed and could receive an undesirable discharge: "I understand that I am being considered for an administrative discharge which could be under conditions other than honorable because (state reason) and that I am subject to and may be separated with an undesirable discharge. I understand that an undesirable discharge is under other than honorable conditions and may deprive me of virtually all veterans' benefits..."

e. On 23 April 1977, Petitioner applied for an upgrade to his discharge characterization pursuant to the Special Discharge Review Program (SDRP) for Vietnam veterans. On 15 August 1978, Petitioner was issued a Correction to DD Form 214 upgrading his characterization of service to general, under honorable conditions, but this upgrade from SDRP does not entitle him to full benefits.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board concludes it was material error for Petitioner to receive an undesirable characterization of service when he was only notified he could receive a general, under honorable conditions, discharge.

RECOMMENDATION:

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

Petitioner's naval record be corrected to show that, on 15 August 1968, his characterization of service was "general, under honorable conditions."

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

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Upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 20 May 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

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