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

ELP
Docket No. 9177-97
27 September 1999

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

Subj: REVIEW OF NAVAL RECORD OF [redacted]

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

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his naval record be corrected to show a more favorable type of discharge than the general discharge issued on 22 May 1995 and by changing the reason for discharge and reenlistment code.

2. The Board, consisting of Ms. Nofziger, Ms. Hardbower, and Mr. Patton, reviewed Petitioner's allegations of error and injustice on 22 September 1999, 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 Petitioner's application to the Board 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 on 27 September 1994 for four years at age 19. The record reflects that he served without incident until 16 February 1995 when he was seen by the mental health department as a self-referral. Petitioner stated "It's almost like reaching a breaking point. If I don't slow down, I'll crack." He complained of headaches, nervous stomach, constant fatigue, chest pains, poor concentration, shortness of breath and difficult sleeping. He also reported crying spells of two to three times a day when thinking about his decision to join the Navy. He also claimed that he had been depressed for the past four years. Psychological testing was then scheduled for 23 February 1995.

d. The medical record reflects that on 23 February 1995 Petitioner underwent a comprehensive psychological evaluation and a series of psychological tests which included the "BDI-II, MMPI-II and the MCMI-II.". The record of medical care states that the reason for Petitioner's self-referral was his desire for discharge due to intolerable stress and depression. The examining psychologist described Petitioner as anxious with a mildly dysphoric mood. He was considered a poor historian and was vague, guarded and evasive in his replies. He claimed that he often saw things others did not, but was not specific, except that he once saw a ghost. He also claimed to hear the "voices of dead poets" who commanded him. The examining psychologist opined that it was difficult to determine how much of what Petitioner said was real and how much of it was for the purpose of being discharged. However, he showed well entrenched paranoid beliefs, which did not appear to be delusions. He was diagnosed as having an adjustment disorder with mixed emotional features and physical symptoms and was scheduled for a follow-up appointment in one week.

e. On the evening of 23 February 1995, Petitioner was referred to a hospital emergency room for depression. He stated that he was homesick, but denied any intentions of killing himself or anybody else. He also complained of a sleeping problem. It was noted that he had been seen by the chaplain and the psychologists earlier in the day.

f. The psychological test results were available during Petitioner's follow-up appointment on 2 March 1995. Of the three tests taken, one test was considered invalid due to his random pattern of responding. A second test was considered marginally valid, due to over-endorsement of psychopathology items in order to look psychologically sick. He was diagnosed

as having a schizotypal personality disorder with borderline and paranoid features. Although he was considered a low suicide risk, it was believed that he would be a high risk for suicide if retained since he had already sought crisis help. Administrative separation was recommended.

g. On 3 March 1995, the mental health department advised Petitioner's command of the foregoing diagnosis and recommendation. On 11 April 1995 he was notified that administrative separation was being considered by reason of convenience of the government due to a diagnosed personality disorder. After being advised of his procedural rights, he declined to consult with counsel or submit a statement in his own behalf, and waived his right to have his case reviewed by the general court-martial convening authority. Thereafter, the commanding officer directed separation with a general discharge by reason convenience of the government due to a personality disorder. Petitioner was so discharged on 22 May 1995. Block c (Net active service this period) of his DD Form 214 is in error and should read "000726" vice "000526."

h. In support of his application, Petitioner has sought psychiatric evaluation on two occasions in an effort to show that the Navy's diagnosis of a personality disorder was erroneous. He was seen by a civilian psychiatrist on 30 November 1998, who saw no obvious psychiatric symptoms and deferred making any diagnosis without psychological testing. He stated that Petitioner did not want treatment, only an evaluation. Petitioner underwent a psychological evaluation on 22 February 1999 and was administered the same psychological tests given by the Navy prior to his discharge. He reported to the civilian psychologist that he tried to enter the Navy SEALS Program but was eliminated because of eyesight. He was then assigned to training as an electrician's mate, but started failing classes because he could not understand the material. He then became concerned that he would be reassigned to do mainly physical labor on board ship. He sought help from a psychologist because he thought he needed to better manage his stress. He asserted that he randomly filled in the answers was because he only wanted counseling and did not want to take any tests. The civilian psychologist asserted that the Navy psychiatrist presented no clear evidence that Petitioner had a severe schizotypal personality disorder. He noted in the MMPI-2 test he administered, the pattern of Petitioner's responses was often seen in individuals who make an unsophisticated attempt to create a very favorable impression of themselves rather than

reveal any problems. This indicated Petitioner lacked personal insight and understanding of his behavior or he was reluctant to look at the sources of his problems. The MCMI-III test suggested an effort by Petitioner to present a socially acceptable front and that he was resistant to admitting personal shortcomings. The results suggested that there may be mild to moderate psychological dysfunction with some narcissistic and obsessive compulsive personality features. The civilian psychologist stated that since most of his test results were invalid, he could not rule out a personality disorder or make a clear diagnosis of Petitioner's present condition, and it would have been even more difficult to assess his condition at the time the Navy psychologist saw him. However, he suspected that depressive symptoms were present at that time. He opined that Petitioner is now either very guarded about his problems or very lacking in psychological insight, and a proper evaluation of psychological functioning can only be adequately determined by psychotherapy over an extended period of time. He diagnosed Petitioner as having an adjustment disorder with anxiety.

i. At enclosure (2), an advisory opinion provided by the Department of Psychiatry at the National Naval Medical Center states that the documentation in this case does not provide evidence consistent with a personality disorder diagnosis. There was no evidence that Petitioner had a psychiatric condition which had impaired his service or performance over time. The advisory opinion noted that psychological testing by the civilian psychologist was also invalid, but noted there was documentation of narcissistic and obsessive compulsive personality features and a diagnosis of an adjustment disorder. The advisory opinion asserted there was insufficient evidence to support a diagnosis of schizotypal personality disorder. However, a diagnosis of adjustment disorder with mixed emotional features was possible at the time of the Navy's evaluation. The advisory opinion further states that despite the lack of data to support a diagnosis of schizotypal personality disorder, there was supportive evidence of a "manipulative pattern of behavior and poor adjustment to military lifestyle." These characteristics remained consistent over several evaluations and were not predictive of good military performance and conduct. Petitioner's return to active duty was not recommended.

j. Petitioner supports his application with letters of reference and a lengthy statement in response to the foregoing advisory opinion. He contends the reason for his discharge is erroneous, and the only reason he referred himself to the mental

health department was to get advice on how cope with the "let down" of failing to be selected for the SEAL Program. He asserts that he never stated that he wanted to be discharged. He claims that what he stated to the Navy psychologist was taken so far out of context that practically everything in her report is untrue, and she was unhappy when he said that he had randomly filled in all of the answers on his tests. Petitioner particularly notes that the advisory opinion found no evidence consistent with a schizotypal personality disorder and argues that there was then no basis for his separation. He says that although the Navy psychologist told him that she was recommending his discharge, he was never told he was being discharged but only that such action was being proposed. After his last appointment with the Navy psychologist, he remained in the Navy for more than two months thinking he was being transferred to the fleet. He pointed out that he was awarded a letter of commendation for having the highest grade point average in recruit training and had no disciplinary actions during his service. He asserts that if he wanted out of the service, he could have absented himself without authority at any time, but did not do so.

k. Regulations provide that individuals separated by reason of convenience of the government will receive the type of discharge warranted by their service record. Character of service is based, in part, on military behavior and overall trait averages which are computed from marks assigned during periodic evaluations. Given the short period of Petitioner's service, no marks were assigned. The minimum average marks required for a fully honorable characterization at the time of his discharge were 3.0 in military behavior and 2.8 in overall traits.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board has no way of determining what was actually reported to the Navy psychologist or what she observed when he was evaluated. The civilian psychologist who subsequently evaluated Petitioner also noted the same difficulty in assessing what his condition was at the time the Navy psychologist saw him. The civilian psychologist states that he could not rule a personality disorder without psychotherapy over an extended period of time. However, given the advisory opinion to the effect that the documentation of record does not provide

evidence consistent with a personality disorder diagnosis, but did support an adjustment disorder, the Board believes that it would be appropriate to change the reason for Petitioner's discharge to "best interests of the service." Although the reason for discharge appears to have been erroneous, Petitioner's adjustment disorder still provided a basis for discharge.

The Board further notes that Petitioner had no disciplinary actions during his short period of service. Performance and conduct marks are normally not assigned during recruit training and subsequent schooling. Since Petitioner was separated by reason of convenience of the government, the characterization of service is to be based on the type of discharge warranted by the service record. The Board concluded that, despite the absence of marks, it would be appropriate and just to recharacterize his service to fully honorable.

The Board concurs with the advisory opinion that Petitioner should not be allowed to return to active duty. In this regard, the Board is convinced that he has some sort of psychological dysfunction or would act in a similar fashion again if subjected to the unique stresses of military service. Accordingly, the Board concludes that the reenlistment code was proper and no change is warranted.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable discharge by reason of "Secretarial Authority" on 22 May 1995 vice the general discharge actually issued on that date. This should include the issuance of a new DD Form 214.

b. That the "net active service this period" appearing in block c of the DD Form 214 by corrected to read "000726."

c. That no further relief be granted.

d. 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.

e. 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 references being made a part of Petitioner's naval 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

ALAN E. GOLDSMITH
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