



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

JRE

Docket No. 06112-09
14 December 2009

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) SNCORB ltr 5220 CORB:002, 10 Aug 09[STOP]
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was retired by reason of physical disability.

2. The Board, consisting of Ms. [REDACTED] and Messrs. [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 November 2009 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 the application was not timely filed, the Board finds it to be in the interest of justice to waive the statute of limitations and consider the application on the merits.

c. In correspondence attached as enclosure (2), the Director, Secretary of Navy, Council of Review Boards (CORB) expressed the opinion that at the time of Petitioner's discharge by reason of

a personality disorder, he was unfit for duty by reason of physical disability due to a mental disorder that existed prior to his enlistment and was aggravated by his naval service and ratable at 10%.

d. Petitioner agreed with the opinion of the Director, CORB, that he was unfit by reason of physical disability, but maintains that his condition was ratable at 30% or higher.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner was unfit for duty by reason of physical disability at the time of his discharge. It concluded further that Petitioner failed to submit sufficient evidence to demonstrate that his disability was ratable above 10%.

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 he was honorably discharged from the Navy by reason of physical disability on 2 February 1979, pursuant to 10 U.S. Code 1203, with a disability rating of 10%, under Department of Veterans Affairs code 9299-9210, less a 0% existed prior to entry factor of 0%, for an acute schizophrenic episode with dissociative and depressive features.

b. That no further relief be granted.

c. That a copy of this Report of Proceedings be filed in 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 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


JAMES R. EXNICIOS
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.

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W. DEAN PFEIFFER