



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

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Docket No: 12072-14
14 April 2015

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USMC,
XXX-XX [REDACTED]

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

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 Marine Corps, filed enclosure (1) with this Board requesting that the characterization of his discharge under other than honorable conditions issued on 5 October 1970, be changed.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 April 2015, 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 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.

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c. Petitioner enlisted in the Marine Corps and began a period of active duty on 10 July 1967.

d. Petitioner served, without disciplinary incident, in the Republic of Vietnam (RVN) from 21 December 1967 to 3 January 1969. However, after returning from RVN, during the period from 19 November 1969 to 5 October 1970, he received nonjudicial punishment (NJP) on four occasions for failure to go to his appointed place of duty on two occasions, unauthorized absence, failure to obey lawful orders on two occasions, and leaving his post before he was relieved.

e. On 15 September 1970, Petitioner submitted a statement in which he admitted to wrongfully using various illegal drugs. As a result, he was administratively processed for separation by reason of misconduct. Subsequently, the discharge authority directed separation under other than honorable conditions by reason of misconduct, and on 19 March 1971, he was so discharged.

f. In his application Petitioner asserts that although not diagnosed until later, he believes his current diagnoses of Post-Traumatic Stress Disorder (PTSD) had already manifested at the time of his discharge, and is related to his RVN service. Petitioner was rated as 100% disabled due to PTSD diagnosis from the Department of Veterans Affairs.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. In this regard, based upon his record of service, to include his RVN service, relief in the form of his characterization of service is warranted. This evidence led the Board to reasonably conclude that the PTSD condition was caused by traumatic service connected events and existed at the time of his discharge. In addition, the fact that the Petitioner did not engage in misconduct until after his departure from his tour in Vietnam that led to his PTSD was persuasive to the Board, and led them to conclude that the PTSD was a causative factor in the misconduct that led to his discharge. Finally, after carefully considering all the evidence, the Board felt that the Petitioner's diagnosed PTSD should mitigate the misconduct he committed while on active

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duty since the PTSD condition outweighed the severity of the misconduct. 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 19 March 1971, he received a "general discharge" vice a discharge under other than honorable conditions.

b. That a copy of this report of proceedings be filed in Petitioner's naval record.

c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 7 November 2014.

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.



T. J. REED
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.



ROBERT J. O'NEILL
Executive Director