



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

JDR
Docket No: 3349-14
10 April 2015

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

Subj: REVIEW NAVAL RECORD OF EX- [REDACTED]
[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 conditions other than honorable issued on 17 November 1969, be changed.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 8 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 18 April 1967. He served for a year in Vietnam during the period from 7 November 1967 to 18 November 1968.

d. On 25 September 1967, Petitioner received nonjudicial punishment (NJP) for four days of unauthorized absence (UA). On 30 November 1967, he was convicted by summary court-martial for lying down on post and reading a book. During the period from 7 November 1968 to 9 October 1969, he was convicted by special court-martial of and received three NJPs for 42 days of unauthorized absence.

e. On 10 November 1969, Petitioner was processed for separation and received an undesirable discharged.

f. In his application, Petitioner states that his periods of UA and other misconduct and were due to suffering from post-traumatic stress disorder (PTSD) that developed during his Vietnam service. He submitted medical evidence of being diagnosed and treated for PTSD as a result of his time in Vietnam.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants relief. In this regard, based upon his record of service, to include his Vietnam service, relief in the form of his characterization of service is warranted. The Board noted that Petitioner provided a detailed medical history and was rated as 30% disabled due to PTSD diagnosis from the Department of Veterans Affairs. 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. 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 duty since the PTSD condition outweighed the severity of the misconduct. In view of the above, the Board directs the following corrective action.

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RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 17 November 1969, he received a "general discharge" vice a discharge under conditions other than honorable.


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 27 January 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