



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 7745-99

30 August 2000

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

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

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

Encl: (1) Case summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, filed enclosure (1) with this Board requesting a change in the reason for his discharge to show that his illness was service connected and/or entitlement to disability retirement.

2. The Board, consisting of Mr. Silberman, Mr. Vaughan, and Ms. Hardbower, reviewed Petitioner's allegations of error and injustice on 9 August 2000 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 Marine Corps on 2 October 1980 at age 21. On 2 January 1981 he completed recruit training. Three months later, on 14 April 1981, he was admitted to the hospital, and remained there until he was found fit for duty on 1 May 1981. The discharge diagnoses were hypo-manic disorder and acute psychotic episode.

d. Petitioner was readmitted to the hospital on 14 May 1981. On 17 June 1981 a medical board found that he suffered from a severe manic disorder which existed prior to his entry (EPTE) into the Marine Corps. Since his condition had improved with treatment, his discharge from the Marine Corps was recommended. The history of the illness set forth in the medical board report noted that two of his brothers had been diagnosed with manic depressive illness, and other siblings were considered to be mentally ill. Subsequently, his discharge by reason of a physical disability, EPTE, was directed. Petitioner was honorably discharged on 7 July 1981. At that time he had completed nine months and five days of active service.

e. The narrative reason for discharge entered on the DD Form 214 was "unsuitability - personality disorder w/o admin board." This is in error since the narrative reason should be "physical disability, EPTE."

f. In 1987 or 1988, after numerous appeals the Board of Veterans' Appeal (BVA) found as follows:

....the veterans' pre-service medical records and school reports do not demonstrate that the veteran had an acquired psychiatric disorder prior to entering the service. His pre-induction examination did not reveal any psychiatric abnormalities, thereby raising a presumption of soundness. We noted that the veteran reported during treatment in service that he experienced problems caused by an excess of energy before entering the service, and that the physical evaluation board determined that a manic disorder existed prior to service. Nevertheless, we have concluded that the evidence as a whole does not clearly and unmistakably show that manic depressive illness preexisted the veteran's entry into the service and the presumption of soundness is, therefore, not rebutted. Accordingly, the BVA has concluded that a bipolar disorder (manic depressive illness) had its onset during the veteran's military service and is service connected.

CONCLUSION:

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

Concerning the reason for discharge, it is clear that Petitioner's DD Form 214 should show that he was discharged by reason of a physical disability, EPTE, and not the reason of unsuitability now of record.

Concerning Petitioner's request that the record show that his illness was service connected, the record shows that he began to display evidence of his manic illness during his teenage years. Further, the medical board report indicates he had a hypo-manic pattern of adjustment, and it describes his extensive family history of manic depressive illness. The Board considered the decision of the BVA but found it insufficient to demonstrate that the medical board determination is erroneous or unjust. Petitioner has not established that his mental illness did not exist prior to his entry into the Marine Corps, a change in the record to show a service connected disability is not warranted.

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 discharged from the Marine Corps by reason of an EPTE physical disability, without entitlement to disability severance pay.

b. That the remainder of his requests be denied.

c. 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.

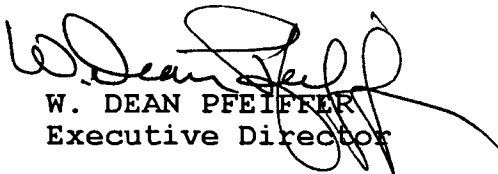
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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 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.


W. DEAN PFEIFFER
Executive Director