



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

JRE
Docket No: 9114-02
25 November 2002

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

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 discharged by reason of physical disability, vice convenience of the government. He contends that he has been denied medical care by the Department of Veterans Affairs because of the basis for his discharge.
2. The Board, consisting of Messrs. McBride, Novello and Schultz, reviewed Petitioner's allegations of error and injustice on 7 November 2002 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. Enclosure (1) was filed in a timely manner.
 - c. Petitioner enlisted in the Marine Corps on 28 May 2002. He was hospitalized on 26 June 2002 for necrotizing fasciitis of the soft tissue of his left thigh, and required extensive medical and surgical treatment, to include skin grafting. On 11 September 2002, medical authority determined that he was not physically qualified for service because of the residual effects of that condition, and he was recommended for an entry level separation. After being advised of the recommendation, Petitioner indicated that he did not want to return to recruit training. He was discharged from the Marine Corps on 26 September 2002, with an entry level separation, for the convenience of the government because of a condition, not a disability, interfering with his performance of duty.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that due to the residual effects of an infection and the treatment therefor, Petitioner was unfit by reason of physical disability, and should have been discharged for that reason, rather than the convenience of the government. Accordingly, 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 on 25 September 2002, while he was entitled to receive basic pay, the Secretary of the Navy found him unfit to perform the duties of his rank by reason of physical disability due to necrotizing fasciitis,, soft tissue, left thigh, status/post skin grafting, which was incurred while Petitioner was entitled to receive basic pay; that the disability is not due to intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; that the disability was incurred in the line of duty after 14 September 1978; that the disability is considered to be ratable at 0% in accordance with the Standard Schedule for Rating Disabilities in use by the Department of Veterans Affairs at the time the Secretary found Petitioner unfit, Code Number 7805; and that the Secretary directed that Petitioner be discharged by reason of physical disability effective 26 September 2002 pursuant to 10 U.S. Code 1203.

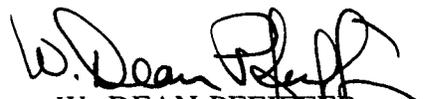
b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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.


W. DEAN PFEIFFER
Executive Director