



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

JRE
Docket No. 06536-07
27 October 2008

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

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

Encl: (1) DD 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, applied to this Board requesting that his naval record be corrected to show that he is entitled to combat-related special compensation (CRSC) for diabetes mellitus, posttraumatic stress disorder, bursitis of the right shoulder, and a condition of his lumbar spine.

2. The Board, consisting of Ms. [REDACTED] and Messrs. [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 23 October 2008 and, pursuant to its regulations, determined that the partial 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. On 20 January 2006, Petitioner was advised by the Director, Secretary of the Navy Council of Review Boards, that his request for CRSC for the conditions listed in paragraph 1 above had been denied because the cause of those diagnoses could not be determined. He was instructed to submit additional information, and advised of his right to apply to the Board for Correction of Naval Records.

c. The staff of the Board obtained records from the Department of Veterans Affairs (VA) which indicate that his condition of diabetes mellitus was rated by the VA on a presumptive basis because of his service in Vietnam and exposure to Agent Orange. The available VA records do not show the cause of his other conditions.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that as the VA granted Petitioner service connection for diabetes mellitus based on his presumed exposure to Agent Orange during his two tours of duty in Vietnam, that condition meets the criteria for the award of CRSC. As he has not demonstrated that the other conditions rated by the VA are combat-related, there is no basis for granting his request for CRSC for any of those conditions.

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 is entitled to combat-related special compensation for diabetes mellitus.

b. That so much of Petitioner's request for correction of his record as exceeds the foregoing be denied.

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


JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 5e of the Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.), and having ensured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the provisions of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER