



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

JRE  
Docket No. 9007-08  
19 March 2009

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

Subj: FORMER [REDACTED]  
[REDACTED]

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

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

1. Pursuant to the provisions of reference (a), Petitioner, mother of deceased former service member, hereinafter referred to as Subject, filed enclosure (1) with this Board requesting, in effect, that her son's naval record be corrected to show that he was separated from the Marine Corps with "a compensable disability".

2. The Board, consisting of Mses. [REDACTED] and [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 March 2009 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. Subject served on active duty in the Marine Corps from 6 February 1990 to 25 August 1991, when he was discharged by reason of physical disability due to a hearing loss in his right ear that was rated at 10% disabling. He received disability severance pay in the amount of \$3,512.40. Due to administrative error, the DD Form 214 he was issued on 25 August 1991 indicates that he was discharged by reason of physical disability that existed prior to entry. On 17 August 1992, the Department of

Veterans Affairs (VA) awarded Subject disability ratings of 10% for tinnitus and 0% for hearing loss, left ear. On 30 April 2008, Petitioner was advised by a VA cemetery official, in effect, that Subject was not eligible for a Government monument because he did not complete twenty-four months of service and was not discharged due to a personal hardship, under an early out program, or because of a compensable service connected disability.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner failed to submit sufficient relevant evidence to demonstrate that Subject's disability was ratable at 30% or higher on 25 August 1991, which would have entitled him to be retired by reason of physical disability, vice discharged; however, his DD Form 214 is erroneous in that it shows that he was discharged by reason of physical disability that existed prior to his entry in the naval service.

RECOMMENDATION:

a. That Subject's naval record be corrected to show that he was discharged by reason of physical disability on 25 August 1991, with entitlement to disability severance pay, vice by reason of disability that existed prior to his entry in the naval service as now shown in his DD Form 214.

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

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