



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

JRE

Docket No. 04557-09
19 October 2009

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
(2) SNCORB ltr 1850 CORB:000, 6 Oct 09
(3) Findings of the PEB, 5 Oct 09

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, as amended, that his record be corrected to show that he was released from active duty on 6 June 2007 and transferred to the Temporary Disability Retired List (TDRL) with a combined rating of 70% for posttraumatic stress disorder, irritable bowel syndrome and degenerative disc disease of the thoracolumbar spine with chronic pain.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED] reviewed Petitioner's contentions of error and injustice on 16 October 2009 and, pursuant to its regulations, determined that the 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. In correspondence attached as enclosure (2), the Director, Secretary of the Navy Council of Review Boards, advised the

Board, in effect, that the Physical Evaluation Board considered Petitioner's case on 5 October 2009. The PEB determined that Petitioner was unfit for duty by reason of physical disability on 6 June 2007 because of disability that was the direct result of a combat related injury and warranted a final combined rating of 70%, and that he should have been released from active duty and transferred to the TDRL at that time. Petitioner accepted the findings of the PEB on 5 October 2009.

CONCLUSION:

Upon review and consideration of all the evidence of record, and particularly in view of the comments contained in enclosure (2), the Board recommends the following action.

RECOMMENDATION:

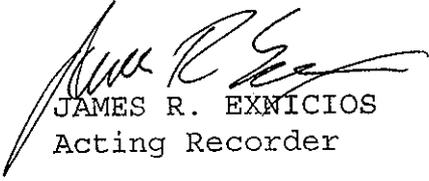
a. That Petitioner's naval record be corrected to show that he was released from active duty on 6 June 2007, vice discharged from the Navy on that date, and transferred to the Temporary Disability Retired List the following day in accordance with 10 U.S. Code 1202, with a combined disability rating of 70% as set-out the enclosed findings of Physical Evaluation Board dated 5 October 2009, for disability that was the direct result of a combat related injury, .

b. That he be accorded a periodic physical examination as soon as practicable.

c. That a copy of the Proceedings of the Board be filed in his 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