



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

JRE

Docket No. 01819-10

14 February 2011

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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), 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 an adjustment disorder rather than fraudulent entry.

2. The Board, consisting of Messrs. Geberth, Spooner and Tew, reviewed Petitioner's allegations of error and injustice on 9 December 2010 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 22 June 2009. On 12 January 2010 he was given a diagnosis of an adjustment disorder with depressed mood. He was discharged under honorable conditions on 29 January 2010 by reason of fraudulent entry based on his concealment of a disqualifying history of attention deficit disorder.

d. Petitioner contends, in effect, that his enlistment was not fraudulent because he advised his recruiter of his history of attention deficit disorder.

CONCLUSION:

Upon review and consideration of all the evidence of record, and resolving doubt in Petitioner's favor, the Board accepted his contention that he fully disclosed his medical history to his recruiter when applying for enlistment, and that although his disclosure does not excuse his subsequent concealment of that history in order to procure an enlistment, it would be in the interest of justice to correct his record to show that he was discharged for the convenience of the government due to a condition, not a disability, that interfered with his performance of duty, namely, and adjustment disorder, and that he was assigned a reentry code of RE-3P.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 29 January 2010, he was discharged for the convenience of the government due a condition, not a disability, that interfered with his performance of duty, and that he was assigned a reentry code of RE-3P.

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

c. That no further relief be granted.

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