



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

TJR
Docket No: 2662-10
9 November 2010

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

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

Ref: (a) 10 U.S.C. 1552
(b) Marine Corps Separation and Retirement Manual

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Marine Corps, filed enclosure (1) with this Board requesting that the narrative reason for separation that is reflected on his Certificate of Release or Discharge from Active Duty (DD Form 214), specifically, "Temporarily Retired" be changed.

2. The Board, consisting of Mr. [REDACTED], Ms. [REDACTED], and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 9 November 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 23 September 2005 under the Delayed Entry Program at age 17, and on 1 August 2006, he began a period of active duty. He served without disciplinary incident and was advanced in rank to lance corporal (LCPL/E-3).

d. On 24 July 2009, Petitioner was informed that because of his diagnosed physical disability, effective 30 September 2009, he would be transferred to the Temporary Disability Retired List (TDRL). He was also informed that as a result of this action, he was entitled to benefits administered by the Department of Veterans Affairs.

e. On 29 September 2009, Petitioner was honorably discharged by reason of "Disability, Temporary" as directed by reference (b). However, he was issued a DD Form 214 that erroneously reflected his narrative reason for separation as "Temporarily Retired."

f. In Petitioner's application he asserts that the erroneous narrative reason for separation is a bar to veterans' benefits and as such he is ineligible to obtain them in accordance with his transfer to the TDRL. In a communication with a veterans' service officer in Orange County, Anaheim, California, who confirmed Petitioner's assertion, it was stated that the narrative reason for separation must be changed and/or corrected to make him eligible for benefits.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board's decision is based on Petitioner's overall record of satisfactory service and his discharge by reason of being placed on the TDRL due to a physical disability. The Board notes that he was issued a DD Form 214 with erroneous information, and that this error is a deterrent to his obtaining veterans' benefits. As such, the Board concludes that his narrative reason for separation should be changed to reflect the narrative reason for separation authorized by reference (b).

Based on the foregoing, and considering Petitioner's desire to receive veterans' benefits, the Board concludes that no useful purpose is served by continuing to label his separation as "Temporarily Retired", and as such his narrative reason for separation should be changed to appropriately reflect "Disability, Temporary." In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

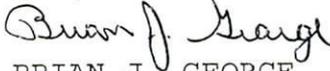
a. That Petitioner's naval record be corrected to show that he was honorably discharged on 29 September 2009 by reason of "Disability, Temporary"; and that he be re-issued a DD Form 214 which reflects this vice "Temporarily Retired."

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

c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 10 March 2010.

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


BRIAN J. GEORGE
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 Regulation, 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