



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

JRE
Docket No. 05584-10
1 October 2010

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
(b) DUSD (P&R) Memorandum for the Service Secretaries,
17 Jul 09

Encl: (1) DD Form 149
(2) DIRSECAVNAV CORB ltr 5220 CORB:002, 28 Jul 10

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, requests correction of his record as indicated in enclosure (1).

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 September 2010 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. Enclosure (1) was filed in a timely manner, or it is in the interest of justice to excuse Petitioner's failure to file enclosure (1) in a timely manner.

b. Petitioner's case is within the category of cases covered by reference (b).

c. In correspondence attached as enclosure (2), the Board was advised by the Director, Secretary of the Navy Council of Review Boards, in effect, that he recommends correcting Petitioner's record to show that he was transferred to the Temporary Disability Retired List effective 15 September 2006, with a rating of 50% vice 0% for a depressive disorder not otherwise specified with elements suggestive of posttraumatic stress

disorder, per 38 CFR 4.129, and that the rating for that condition was reduced to 0% effective six months post discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, and in accordance with the provisions of reference (b) and the comments contained in enclosure (2), the Board directs the corrective action indicated below.

The Board concluded that as Petitioner failed to demonstrate that he should have received a final disability rating in excess of 0% for posttraumatic stress disorder effective 15 March 2007, there is no basis for correcting his record to show that he was permanently retired by reason of physical disability.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 16 September 2006, his name was placed on the Temporary Disability Retired List with a rating of 50% for depressive disorder not otherwise specified with elements suggestive of posttraumatic stress disorder, vice 0% for posttraumatic stress disorder, and a combined rating of 60%; and that he was discharged from the Marine Corps on 16 March 2007, with entitlement to disability severance pay, pursuant to 10 US Code 1203, due to depressive disorder not otherwise specified with elements suggestive of posttraumatic stress disorder, rated at 0% disabling, and a combined disability rating of 20%.

b. That no further relief be granted.

c. That a copy of these proceedings 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