



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

JRE
Docket No. 5911-10
25 October 2010

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

Encl: (1) DD Form 149 w/attachments
(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 her naval record be corrected to show that she was permanently retired by reason of physical disability with a rating of 50% or higher.
2. The Board, consisting of Mses. [REDACTED] and [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 October 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
 - b. Petitioner's case is within the category of cases covered by reference (b).
4. Petitioner did not submit any documentary evidence in support of her application or consent to the release of her Department of Veterans Affairs (VA) records to the Board.

CONCLUSION:

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

As Petitioner did not submit any documentary evidence in support of her application, or consent to the release of her Department of Veterans Affairs (VA) records to the Board, and as she failed to demonstrate that her condition was ratable above 10% disabling in accordance with the provisions of 38 Code of Federal Regulations part 4.130 six months after the date of her discharge from the Navy, there is no basis for correcting her record to show that her name was retained on the TDRL for longer than six months, or that she was permanently retired by reason of physical disability.

RECOMMENDATION:

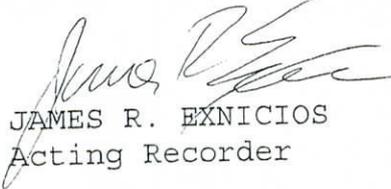
a. That Petitioner's naval record be corrected to show that her name was placed on the Temporary Disability Retired List on 10 October 2006 in accordance with the provisions of 10 U.S.C. 1202 with a disability rating of 50% for posttraumatic stress disorder under VA code 9411, provided that such action does not adversely affect her total compensation, including but not limited to combat-related special compensation, and that her record be further corrected to show that she was discharged by reason of physical disability on 9 April 2007 in accordance with the provisions of 10 U.S.C. 1203, with a disability rating of 10% under VA code 9411.

b. That no further relief be granted.

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