



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TLG
Docket No: 5113-14
18 May 2015

From: Chairman, Board for Correction of Naval Records
To: Commandant of the Marine Corps

Subj: REVIEW NAVAL RECORD OF **5 U.S.C. 552(b) (6)**
XXX-XX**5**

Ref: (a) 10 U.S.C. 1552

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 enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that his other than honorable discharge of 11 November 1983, be changed.

2. The Board, consisting of **5 U.S.C. 552(b) (6)** and **5 U.S.C.** reviewed Petitioner's allegations of error and injustice on 15 May 2015, 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. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 8 March 1992, and served for about four months without disciplinary incident. However, during the period from 30 July 1982 to 30 September 1983, he received five nonjudicial punishments (NJP) for two periods of unauthorized absence (UA), disrespect, disobeying a lawful order, sleeping on duty, and absence from his appointed place of duty.

d. Petitioner was administratively processed for separation by reason of misconduct due to a pattern of misconduct and on 10 November 1983, he received an other than honorable discharge by reason of misconduct.

e. In his application Petitioner asserts that although not diagnosed until later, he believes his current diagnoses of Post-Traumatic Stress Disorder (PTSD) had already manifested at the time of his discharge, and is related to the military sexual trauma (MST) he experienced during his period of active duty.

CONCLUSION:

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

The Board initially notes Petitioner's disciplinary incident, and does not condone his misconduct. However, the Board believes that the evidence in the record does not support an other than honorable characterization of service. This evidence led the Board to reasonably conclude that the PTSD condition was caused by traumatic service connected events and existed at the time of his discharge. In addition, since Petitioner did not engage in misconduct until after he experienced MST, the Board concluded that the PTSD was a causative factor in the misconduct that led to his discharge. Finally, after carefully considering all the evidence, the Board felt that Petitioner's diagnosed PTSD should mitigate the misconduct he committed while on active duty since the PTSD condition outweighed the severity of the misconduct.

TLG

Docket No: 5113-14

In this regard, the Board concludes that the record should be corrected to appropriately reflect an general under honorable conditions characterization of service.

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 on 10 November 1983, he received a general discharged. It is also directed that he be issued a new certificate of release or discharge from active duty (DD Form 214), which reflects the foregoing characterization of service.

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 13 March 2014.

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.

5 U.S.C. 552(b)
(6)

T. J. REED
Recorder

TLG

Docket No: 5113-14

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.

5 U.S.C. 552(b) (6)

ROBERT J. O'NEILL
Executive Director