



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

SJN
Docket No: 5850-14
19 June 2015

From: Chairman, Board for Correction of Naval Records
To: Headquarters 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, in effect, that his other than honorable (OTH) discharge 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 4 February 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 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 and began a period of active duty on 24 July 1968. During the period from 5 January 1970 to 29 October 1971, he received six nonjudicial punishments (NJPs) for being drunk on duty, and five brief periods of unauthorized absence (UA). He was also convicted by both summary and special courts-martial of two periods of UA totaling 53 days and breaking restriction. Subsequently, he was processed for separation by reason of misconduct, and on 15 December 1971, he was so discharged.

SJN

Docket No: 5850-14

d. In his application, Petitioner asserts that he had Post-Traumatic Stress Disorder (PTSD) at the time of his service that was the cause of his misconduct. He attached a psychologist report that states his post service diagnosed PTSD, in part, derives solely from psychological trauma he incurred during his military service in Vietnam, and found to be service-connected.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. In this regard, based upon his record of service, to include his misconduct and Vietnam combat service, relief in the form of his characterization of service should be changed to general. The Board noted that the Petitioner provided a detailed medical history and PTSD diagnosis from a psychologist addressed to the Department of Veterans Affairs. 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, the fact that the Petitioner did not engage in misconduct until after the traumatic incidents that led to his PTSD was persuasive to the Board and led them to conclude that the PTSD was a causative factor in the misconduct that led to the Petitioner's discharge. Finally, after carefully considering all the evidence, the Board felt that the Petitioner's diagnosed PTSD should mitigate the misconduct he committed while on active duty since the PTSD condition outweighed the severity of the misconduct. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 15 December 1971, he received a "general discharge".

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 15 April 2014.

SJN

Docket No: 5850-14

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

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