



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

JDR
Docket No: 11129-14
8 May 2015

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

Subj: REVIEW NAVAL RECORD OF EX-PVT, 5 U.S.C. 552(b) (6)

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 the characterization of his discharge "under conditions other than honorable" issued on 6 December 1985 and his "RE-4" reenlistment code, be changed.

2. The Board, consisting of 5 U.S.C. 552(b) (6) and 5 U.S.C. 552(b) (6) reviewed Petitioner's allegations of error and injustice on 24 April 2015, and pursuant to its regulations, determined that the partial 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.

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c. Petitioner enlisted in the Marine Corps, began a period of active duty on 21 June 1983, and satisfactorily served without disciplinary incident for about two years.

d. During the period from 13 June to 4 November 1985, he received three nonjudicial punishments (NJP) for a four day period of unauthorized absence (UA), being absent from his appointed place of duty, and writing a worthless check.

e. On 6 December 1985, Petitioner was processed for separation and received an other than honorable discharged by reason of misconduct due to a pattern of misconduct. He was assigned a reenlistment code of RE-4.

f. In his application, although not substantiated, Petitioner alluded that his period of UA and other misconduct were the result of post-traumatic stress disorder (PTSD) developed during his military service. Additionally, he submitted evidence of post-service achievements, to include his affiliation with the Army Sustainment Command while serving as a contractor deployed to Afghanistan, Kuwait, Qatar, and the United Arab Emirates.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of Petitioner's post-service conduct, the Board concluded that relief in the form of recharacterization of his service is warranted. Although his assertion of PTSD is not substantially documented, the Board felt that his post service affiliation with the United States Army is a valid attempt at making amends for the minor misconduct committed, and as such, concluded is sufficient to warrant partial clemency. With that being said, and considering the fact that Petitioner has suffered the consequences of such an other than honorable discharge for more than 30 years, the Board concludes that no useful purpose is served by continuing to characterize his service as having been under other than honorable conditions, and recharacterization to a general discharge is appropriate.

The Board is not willing to change his reenlistment code, given his three instances of NJP. In this regard, the Board noted that after he was counseled and warned that further misconduct could result in administrative separation, he committed more offenses. His commanding officer determined that he had no potential for further service at the time he was recommended for discharge.

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In view of the foregoing, the Board finds the existence of an injustice warranting the following partial corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 6 December 1985, he received a "general" discharge.

b. That no further relief be granted.

c. That a copy of this report of proceedings be filed in Petitioner's naval record.

d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 30 September 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

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