



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

ES
Docket No: 6513-14
4 May 2015

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

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

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 other than honorable conditions issued on 12 April 1989, be changed.

2. The Board, consisting of 5 U.S.C. 552(b) (6) and 5 USC reviewed Petitioner's allegations of error and injustice on 23 April 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 26 November 1985.

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d. Petitioner served for about two years and two months without disciplinary incident. However, during the period from 15 January 1988 to 23 January 1989, he was convicted by special court-martial (SPCM) and received nonjudicial punishment (NJP) for four periods of unauthorized absence (UA) totaling 110 days.

e. On 16 March 1989, Petitioner was administratively processed for separation. After waiving his procedural rights, the discharge authority directed separation under other than honorable conditions by reason of misconduct, and on 12 April 1989, he was so discharged.

f. In December 2013, Petitioner was diagnosed with a Post-Traumatic Stress Disorder (PTSD). In his application, he asserts that although not diagnosed until a later date, he believes that PTSD had already manifested at the time of his discharge, and that it was related to his childhood development and military service.

CONCLUSION:

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

In regard to the foregoing, the Board initially noted Petitioner's record of disciplinary incidents and does not condone his misconduct. However, the Board believes that based on the detailed medical history and diagnoses by a licensed psychologist, that Petitioner's request warrants relief. With that being said, the Board concludes that the diagnosed PTSD was caused by traumatic service-connected events and existed at the time of his discharge. After carefully considering all the evidence, the Board felt that his diagnosed PTSD should mitigate the misconduct he committed, since it 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 12 April 1989, he received a general discharge.

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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 7 May 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