



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

ES
Docket No: 7014-14
25 June 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)
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 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 19 June 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 19 July 2010.

d. Petitioner served for about 10 months without disciplinary incident. However, during the period from 27 May 2011 to 18 August 2011, he received three nonjudicial punishments (NJP) for taking an over-the-counter drug with intent to induce intoxication and breaking restriction on two occasions.

e. On 14 July 2011, the commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation, but directed discharge general under honorable conditions and on 14 October 2011, he was so discharged.

f. On 6 February 2013, Petitioner was granted a 30 percent rating from the Department of Veterans Affairs for a diagnosed adjustment disorder with anxiety and depressed mood (also claimed as post-traumatic stress disorder (PTSD)), drug and alcohol dependence, and insomnia.

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 Department of Veterans Affairs decision to grant the Petitioner with a psychiatric disorder, that the Petitioner's request warrants relief. With that being said, the Board concludes that the diagnosed adjustment disorder with anxiety and depressed mood also claimed as 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 diagnoses 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 14 October 2011, he received an honorable 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 9 April 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