



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

JRE  
Docket No.2428-14  
20 March 2015

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

Subj: [REDACTED]  
REVIEW OF NAVAL RECORD;

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

Encl: (1) DD Form 149  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show that he is entitled to combat-related special compensation (CRSC) for the injuries he sustained in a live fire training accident on 19 January 2012.

2. The Board, consisting of Messrs. Chapman, Spooner and Swarens, reviewed Petitioner's allegations of error and injustice on 19 March 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. Enclosure (1) was filed in a timely manner.

c. Petitioner sustained injuries to his left lower extremity on 12 January 2012 as a result of an accidental, self-inflicted gunshot wound which occurred during a live fire training exercise. On 8 February 2013 the Physical Evaluation Board (PEB) found him unfit by reason of physical disability due to residuals of the gunshot wound, which were rated at 40%. In addition, the PEB determined that the disabilities were the direct result

of a combat related injury as defined in title 26, U.S. Code section 104(b)(3). Petitioner was permanently retired by reason of physical disability on 29 April 2013. Effective 30 April 2013, the Department of Veterans Affairs (VA) awarded him disability ratings for status/post gunshot wound left lower extremity muscle group XXIII injury, 30% under VA Schedule for Rating Disabilities (SRD) code 5271-5312; all painful/tender scars of the left lower extremity, 20% under VASRD code 7804; adjustment disorder with mixed anxiety and depressed mood, 10% under VASRD code 9440; status/post gunshot wound, left lower extremity-left foot hypersensitivity, 10% under VASRD code 5271-8622; and tinnitus, 10% under VASRD code 6260.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the determination of the PEB that the injuries were the direct result of a combat-related injury, and the fact that the wound was caused by an instrumentality of war, the Board finds the existence of an injustice warranting corrective action with regard to the disabilities rated by the VA, as described in paragraph 3c, above, with the exception of the tinnitus and adjustment disorder. The Board concludes that as Petitioner has not demonstrated that those two conditions were caused by a combat-related event or occurrence, there is no basis for granting his request for combat-related special compensation for either condition.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he is entitled to combat-related special compensation for status/post gunshot wound, left lower extremity muscle group XXIII injury, 30%, VA Schedule for Rating Disabilities (SRD) code 5271-5312; all painful/tender scars of the left lower extremity, 20%, VASRD code 7804; and status/post gunshot wound, left lower extremity-left foot hypersensitivity, 10%, VASRD code 5271-8622.

b. That no further relief be granted.

c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

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.

  
JAMES R. EXNICIOS  
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 Regulations, 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.

  
ROBERT J. O'NEILL  
Executive Director