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

TJR
Docket No: 2158-15
30 March 2015

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

Subj: REVIEW NAVAL RECORD OF [redacted]

Ref: (a) 10 U.S.C. 1552
(b) SECDEF Memorandum, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder" dated September 3, 2014.

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (Excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting that the characterization of his other than honorable discharge be changed in light of current guidelines as reflected in reference (b). Enclosures (1) through (3) apply.

2. The Board, consisting of [redacted] and [redacted], reviewed Petitioner's allegations of error and injustice on 27 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. Although it appears that 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 22 September 2006 at the age of 18. He served without disciplinary infraction until 25 March 2010, when his urine sample tested positive for 88ng/ml grams of marijuana.

d. As a result of the foregoing, Petitioner was processed for separation by reason of misconduct due to drug abuse, which was in direct violation of the Navy's Zero Tolerance Policy. Upon completion of administrative separation procedural review, on 3 November 2010, Petitioner was issued an other than honorable discharge by reason of misconduct due to drug abuse and assigned an RE-4 reenlistment code. Nonetheless, at the time of his discharge, his conduct average was 4.0, which was sufficiently high for consideration of a better characterization of service, if warranted.

e. With Petitioner's application is an appeal for consideration of his characterization of service based on his diagnosed post-traumatic stress disorder (PTSD) and a clinical psychological evaluation with progress reports, attesting to the fact that his misconduct and subsequent administrative discharge from the Navy, were the direct result of his PTSD.

CONCLUSION:

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

The Board initially notes Petitioner's misconduct and does not condone his actions. However, the Board's decision is based on Petitioner's evidence as reflected in his medical and/or mental history documentation, psychological evaluation of PTSD, and overall satisfactory service which resulted in a high conduct mark average. Further, the Board concluded that the PTSD was a causative factor in Petitioner's misconduct. In this regard, this evidence led the Board to reasonably conclude that the PTSD condition existed at the time of his discharge, and subsequently resulted in his other than honorable discharge. After carefully considering all the evidence, the Board felt that Petitioner's diagnosed PTSD should mitigate the misconduct he committed while on active duty since this condition outweighed the severity of the misconduct. With that being determined, the Board concludes

that no useful purpose is served by continuing to characterize the Petitioner's service as having been under other than honorable conditions, and recharacterization to a general discharge is now more appropriate.

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued a general discharge on 3 November 2010, vice the other than honorable discharge actually issued on that day.

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 16 March 2015.

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