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

EGA
Docket No: 1282-15
15 July 2015

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

Subj: REVIEW NAVAL RECORD OF FORMER [redacted] USN, [redacted]

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

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

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 bad conduct discharge issued on 6 November 1991, be changed.

2. The Board, consisting of [redacted] and [redacted] reviewed Petitioner's allegations of error and injustice on 4 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 Navy and began a period of active duty on 13 July 1987.

d. On 21 April 1989, Petitioner received nonjudicial punishment (NJP) for unauthorized absence (UA), disrespect, and failure to obey orders. On 7 August 1990, he received a special court-martial (SPCM) for two periods of UA and wrongful use of a controlled substance. As a result, he was sentenced to a bad conduct discharge, forfeiture of $300 pay per month for two months, reduction to E-1, and 45 days confinement. On 6 November 1991, he was discharged with a bad conduct characterization of service.

e. The Petitioner had over 9 years of previous honorable service with the Navy from 6 October 1977 to 12 July 1987.

f. In his application, Petitioner states that the reason for his misconduct was due to Post-Traumatic Stress Disorder (PTSD) that developed after witnessing several traumatic incidents, to include the deaths of fellow shipmates onboard the USS Independence. He submitted copies of a recent Veterans Administration medical assessment supporting his claim of being treated for PTSD and character reference letters.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. In this regard, based upon his record of service, to include his previous 9 years of honorable service with the Navy, relief in the form of his characterization of service is warranted. The Board noted that Petitioner provided a clear picture of his character prior to his SPCM and a PTSD diagnosis from a Veterans Affairs Medical Center. This evidence led the Board to reasonably conclude that the PTSD condition was caused by traumatic service connected events and existed at the time of his discharge. In addition, the fact that Petitioner did not engage in misconduct until after the traumatic incidents that led to his PTSD was persuasive to the Board, and led them to conclude that the PTSD was a causative factor in the misconduct that led to his discharge. Finally, after carefully considering all the evidence, the Board felt that the Petitioner's diagnosed PTSD should mitigate the misconduct he committed while on active

duty since the PTSD condition 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 6 November 1991, he received an "other than honorable discharge" vice a bad conduct 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 14 January 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.

[redacted]

DAVID J. CASH
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.

[redacted]

ROBERT J. O'NEILL
Executive director