



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

[REDACTED]
Docket No: 6637-16
MAR 17 2017

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

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED] XXX-XX-[REDACTED] USMCR RET

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

Encl: (1) DD Form 149 w/attachments
(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 grant him combat related special compensation (CRSC) for all his Department of Veterans Affairs (VA) disabilities.
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 16 February 2017 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. Petitioner injured his back on 23 February after jumping off a 7-ton truck with full gear during work-up training in preparation of deploying in support of OIF/OEF. His injury later results in his placement on the Temporary Disability Retirement List (TDRL) for low back pain. In addition to his back condition, the Petitioner is rated for a number of other service connected conditions by the Department of Veterans Affairs.
 - c. Petitioner for CRSC on 6 March 2014 and was denied by the CRSC Board on 14 March 2014 based on lack of evidence that his conditions were caused by specific combat related events. Petitioner requested reconsideration and was again denied by the CRSC Board on the same basis.

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CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following partial corrective action.

The Board concluded that the Petitioner's record supports a finding that his VA rated lower back condition was incurred in the performance of duty under conditions simulating war. In the Board's opinion, Petitioner's medical record substantiates that he injured his back jumping off a truck in full gear in training while simulating an Improvised Explosive Device attack. This injury later led to his placement on the TDRL with a disability rating of 40%. This led the Board to determine that his disability was a direct result of a military training simulation of an armed conflict event. Based on these conclusions, the Board found that Petitioner met the requirement for CRSC for his degenerative lumbar intervertebral disc degeneration and spondylolisthesis condition. However, the Board concluded that Petitioner failed to provide sufficient evidence that his remaining VA rated disability conditions were the result of events that would qualify for CRSC.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

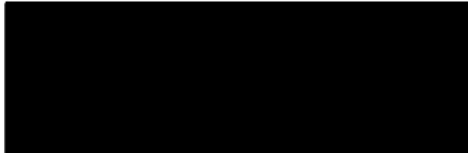
a. Petitioner was granted a CRSC determination of "Simulating War" for degenerative lumbar intervertebral disc degeneration and spondylolisthesis condition, VASRD 5242, with a CRSC effective date of 1 December 2011 and a 40% disability rating.

b. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that 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.


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.


Executive Director