



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

[REDACTED]
Docket No: 7295-16
SEP 05 2017

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED] USMC,
XXX-XX [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) SECDEF Memo of 3 Sep 14 "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD"
(c) PDUSD Memo of 24 Feb 16 "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records (BCMRs/BCNR) by Veterans Claiming Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI)"

Encl: (1) DD Form 149
(2) Subject's naval record (excerpts)
(3) BUMED memo 5740 Ser M34/17UM34105 dtd 19 Jun 17

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1), requesting that his discharge be upgraded in light of current guidelines as reflected in references (b) and (c). Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 July 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. In addition, the Board considered enclosure (3) an advisory opinion furnished by the Bureau of Medicine and Surgery (BUMED).

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.

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED] USMC,
XXX-XX-[REDACTED]

c. Petitioner enlisted in the Marine Corps and began a period of active duty on 6 April 1967. He participated in operations in Da Nang, Vietnam during the period from 17 May 1968 to 19 June 1969. During his enlistment, Petitioner was convicted by summary court-martial on 8 January and 9 April 1968 of two separate periods of unauthorized absence (UA), and by special court-martial on 31 December 1968 of wrongful possession of marijuana. He also received nonjudicial punishment on 28 February and 16 July 1968 for one period of UA and for failure to obey a lawful order. In view of the foregoing misconduct, administrative discharge action was initiated, resulting in his discharge on 4 August 1968 with an Undesirable characterization of service by reason of unfitness. On 27 June 1977, the Naval Discharge Review Board (NDRB) upgraded his characterization of service to General (under honorable conditions) under the review criteria of a Special Discharge Review Program. On 4 August 1978, the NDRB upheld its decision to upgrade Petitioner's discharge to only General (under honorable conditions), citing his numerous instances of misconduct and an insufficient average conduct mark for an Honorable discharge.

d. In Petitioner's application, he contended that his characterization should be upgraded due to material legal error in his separation process, and per the Secretary's memorandum regarding liberal consideration of discharge upgrades due to PTSD. He asserted that he was advised of his rights based on the notification that the recommendation for discharge was due to possession of marijuana. However, the admin discharge board added "due to frequent involvement of a discreditable nature with military authorities" as a basis for discharge, and had he been aware of the additional charge, he could have challenged that he was found unqualified for retention. Additionally, in support of an upgrade, he conveyed that he enlisted at age 17, having only a ninth grade education, that he was a [REDACTED] citizen residing in [REDACTED] and was effectively beyond the reach of the draft, and that his offenses were minor.

e. Enclosure (3) noted that Petitioner experienced combat related traumatic events while deployed, which negatively affected his emotional state and work performance. The AO further opined that this was documented in both medical and administrative notes while in-service, and post discharge psychiatric notes also attest to the presence of PTSD symptoms. It is the medical officer's opinion that Petitioner suffered from a mental health condition at the time of service that interfered with his judgment and led to an undesirable discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants relief. The Board reviewed his application under the guidance provided in references (b) and (c), and the AO, and gave liberal consideration to his assertion of his PTSD and other mental-health issues as mitigating factors in his misconduct. Although the Board does not condone Petitioner's misconduct, the Board believed that his petition for relief was adequate based on his diagnosis of PTSD and that no useful purpose is served by continuing to characterize his service as having been General (under honorable conditions). Although the Board did not find an error in the administrative separation process worthy of an upgraded discharge, the Board was especially persuaded by the fact that he voluntarily enlisted in the

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED] USMC,
XXX-XX [REDACTED]

Marine Corps during the Vietnam conflict, at age 17 and as a [REDACTED] citizen who was residing in [REDACTED]. The Board concluded that, as a matter of justice, recharacterization to an Honorable characterization of service is more appropriate.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

Petitioner's naval record be corrected to show that he was issued an Honorable characterization of service on 4 August 1969.

Petitioner be issued a new Certificate of Release or Discharge From Active Duty (DD Form 214).

A copy of this report of proceedings be filed in Petitioner's naval record.

Upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 12 August 2016.

4. 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]

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]

Executive Director