



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

[REDACTED]
Docket No: 7870-16

MAY 22 2017

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

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

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 change his characterization of service to under honorable conditions.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 27 April 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 entered active duty with the Navy in July 1998. After a period of approximately 13 months of service, non-judicial punishment was imposed on him on 8 September 1999 for dereliction of duty and false official statement followed by another non-judicial punishment on 10 February 2000 for wrongful use of marijuana. As a result of his misconduct, he was notified of administrative separation processing for commission of a serious offense and drug abuse and discharged on 6 March 2000 after acknowledging and waiving his rights.

c. On 8 June 2000, Petitioner was seen by a civilian medical facility where he exhibited symptoms of schizophrenia. A 23 June 2016 medical opinion states that he was likely suffering from early onset symptoms of schizophrenia while on active duty that may have influenced his behavior that led to his misconduct.

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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 Petitioner's case warrants an upgrade to his characterization of service based on mitigation evidence that he may have been suffering from early onset symptoms of schizophrenia at the time of his discharge. The Board determined that sufficient medical evidence exists to support a finding that an injustice exists due to Petitioner's current characterization of service.

Despite the Board's determination that Petitioner may have been suffering from early onset symptoms of schizophrenia, they concluded that he was mentally responsible for his actions while on active duty and criminally responsible for his misconduct. The Board considered evidence that Petitioner used marijuana prior to entering the Navy and had a long period of acceptable Navy performance between wrongful uses of marijuana. This led the Board to conclude he was predisposed to using marijuana regardless of his symptoms and was aware of its wrongful nature. In addition, the Board concluded that Petitioner was not unfit for continued naval service due to schizophrenia. There was no medical evidence that Petitioner suffered an occupational impairment while on active duty as a result of his schizophrenia. Further the Board concluded he would have been ineligible for disability processing based on their finding he was mentally responsible for his criminal actions and eligible for misconduct processing. The Board did not find sufficient evidence to support Petitioner's assertion that he was mentally incapable of acknowledging and waiving his due process rights involving his administrative separation. In the Board's opinion, there were other potential intervening factors, e.g. Petitioner's admitted marijuana use, which could have contributed to Petitioner rapid mental health decline after his discharge. Based on these findings, the Board determined that Petitioner's mental state on 8 June 2000 was not necessarily indicative of his mental state prior to his discharge.

RECOMMENDATION

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

Petitioner's received a General Discharge under Honorable Conditions in lieu of an Other than Honorable characterization of service. No other relief is warranted.

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.

[REDACTED]
Recorder

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FORMER MBR [REDACTED] USN, XXX-XX-[REDACTED]

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.

[REDACTED]
Executive Director