



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

[REDACTED]  
Docket No: 7952-16  
MAR 27 2017

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

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

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 place him on the Permanent Disability Retirement List.
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 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 was placed on the Temporary Disability Retirement List (TDRL) for Left transtibial amputation permitting prosthesis (40%) and bilateral ruptured globes requiring surgical repair with residual visual acuity defects (30%). His combined disability rating was 60%.
  - c. The Physical Evaluation Board removed Petitioner from the TDRL after he failed to complete his final periodic examination on 28 September 2010. Petitioner was notified of his discharge on 7 January 2011.
  - d. The Department of Veterans Affairs continues to rate Petitioner's two unfitting conditions at a combined 60%.
  - e. In regard to Petitioner's request for a personal appearance, the Board determined that a personal appearance was not necessary and considered the case based on the evidence of the record.

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FORMER MBR [REDACTED]

XXX-XX-[REDACTED]

USMC

## CONCLUSION

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

The Board concluded that Petitioner should be placed on the Permanent Disability Retirement List (PDRL) due to the severity of his injuries suffered from a roadside bomb in Iraq. In their opinion, the interests of justice require he be placed on the PDRL despite his failure to abide by TDRL regulations.

## RECOMMENDATION:

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

a. Petitioner was placed on the Permanent Disability Retirement List for Left Transtibial Amputation permitting Prosthesis, VASRD 5165, with a disability rating of 40% and related Category 2 diagnosis of Neuropathic (Phantom) Pain of Slight Intensity and Occasional Frequency, and Bilateral Ruptured Globes Requiring Surgical Repair with Residual Visual Acuity Deficits, VASRD 6029, with a disability rating of 30%. The combined disability rating shall be 60% with an effective date of 28 September 2010.

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.

[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 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