



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

[REDACTED]  
Docket No: 8170-16  
NOV 13 2017

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED]  
USN [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 place him on the disability retirement list.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 October 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, relevant portions of naval records, and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion contained in Director CORB letter 5220 CORB: 002 of 26 July 2017.

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 June 1972. After suffering a shotgun wound to his right shoulder, he was placed on the Temporary Disability Retirement List with a 30% disability rating for his right scapula gunshot wound on 12 April 1976.

c. In September 1977, Petitioner underwent a periodic examination and was returned to active duty by the Physical Evaluation Board (PEB) on 1 November 1977. However, due to continued symptoms related to his original injury that created a significant occupational impairment, he was again found unfit for continued naval service by the PEB on 12 July 1979. However, his condition was rated at 20% and he was recommended for discharge with severance pay. In August of 1979, the Department of Veterans Affairs rated Petitioner's right shoulder condition 30% disabling.

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d. Director CORB provided an advisory opinion recommending Petitioner's placement on the Permanent Disability Retirement List (PDRL) with a 30% disability rating for neuropathy motor, complete, nerve to rhomboids, with resultant winging of scapula. He advised that the winging of Petitioner's scapula would have warranted a 30% rating under the VASRD guidelines.

## 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 PDRL for his disability condition that served as the basis for his separation in 1979. In making their findings, the Board substantially concurred with the advisory opinion contained in Director CORB ltr 5220 CORB: 002 of 26 Jul 2017. Specifically, the Board found that Petitioner was improperly rated by the PEB in 1979 since the winging of his scapula was not considered in their rating.

## RECOMMENDATION

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

Petitioner was placed on the PDRL for neuropathy motor, complete, nerve to rhomboids, with resultant winging of scapula, VASRD 8519, with a disability rating of 30% effective 27 August 1979 vice discharged.

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