



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 7082-00
25 July 2001

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149
(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 his naval record be corrected to show that he was discharged by reason of physical disability, vice a condition, not a disability, interfering with duty.
2. The Board, consisting of Ms. Moidel and Messrs. McPartlin and Novello reviewed Petitioner's allegations of error and injustice on 28 June 2001 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. Enclosure (1) was filed in a timely manner.
 - c. Petitioner enlisted in the Marine Corps on 3 January 2000. In a memorandum dated 5 June 2000, the Commanding Officer, Naval Hospital, Camp Lejeune, advised Petitioner's commanding officer that Petitioner had had lower leg pain and bilateral knee pain since boot camp, and was given a diagnosis of a left tibia stress fracture. He had been unable to start advanced training, and his condition failed to respond to medication, light duty or rehabilitation. As he waived his right to appear before a physical evaluation board, it was recommended that he be administratively separated because of his bilateral knee pain and the stress fracture. He was discharged on 14 July 2000, by reason of a condition, not a

disability, interfering with his performance of duty.

d. Petitioner maintains that he was injured during his enlistment, and has had difficulty obtaining benefits from the Department of Veterans Affairs because of the reason and authority for his discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner was unfit for duty because of the stress fracture of his left tibia, which was incurred during his service in the Marine Corps, and that he should have been discharged by reason of physical disability because of that condition. It was not persuaded that his knee condition was the result of an injury, or that he was unfit for duty because of his bilateral knee pain.

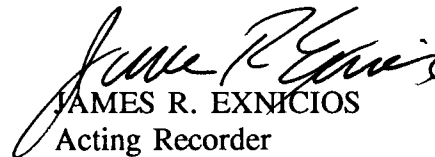
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was discharged by reason of physical disability on 14 July 2000, with entitlement to disability severance pay, because of a stress fracture of the left tibia, rated at 0% under VA code 5299-5262.

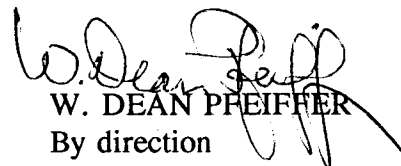
b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting 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.


W. DEAN PFEIFFER
By direction