



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

JRE
Docket No. 11781-09
19 July 2010

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy
Subj: [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 is entitled to combat-related special compensation for residuals of injuries to his lower extremities, and lumbar strain with chronic recurrent low back pain.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 July 2010 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 sustained multiple injuries to his lower extremities on 21 March 1980, when he was run over by a towed aircraft while he was working on the flight deck of the USS Constellation. He was retired by reason of physical disability on 19 November 1980 due to the residuals of those injuries. The Department of Veterans Affairs (VA) has assigned him disability ratings of 10% for a scar of the right heel; 10% for residuals of a left foot injury; 20% for lumbar strain with chronic low back strain; and 30% for peroneal nerve palsy, right lower leg.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that the disabilities of Petitioner's lower extremities are the direct result of combat-related injuries.

The Board concludes further that the available records do not demonstrate that his lower back disability was caused by a combat-related event.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

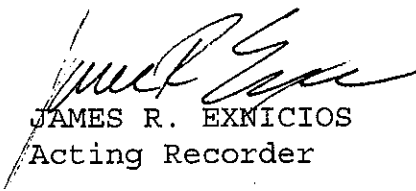
a. That Petitioner's naval record be corrected to show that he is entitled to combat-related special compensation for scars, right heel residuals of injury to left foot and peroneal nerve palsy, right lower leg, rated at 10%, 10%, and 30%, respectively.

b. That no further relief be granted.

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

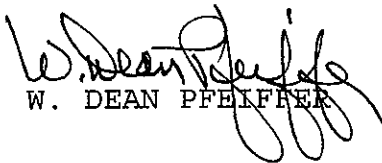
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's 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