



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

JRE
Docket No. 04605-10
22 March 2011

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) CMC memo 1741 MMSR-4, 26 Mar 10
(3) 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 retired by reason of physical disability by reason of physical disability.

2. The Board, consisting of Ms. [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 March 2011 and, pursuant to its regulations, determined that the partial 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 enlisted the Marine Corps on 23 July 1997. He was found fit for duty by the Physical Evaluation Board (PEB) on 1 February 2006, and he accepted that finding on 10 February 2006. He was discharged on 9 August 2006 by reason of completion of required service. He was assigned a reentry code of RE-3P, to indicate that he requires a waiver of physical disqualification in order to be eligible to reenlist.

d. In correspondence attached as enclosure (2), the [Commandant of the Marine Corps advised the Board, in effect, that Petitioner was not entitled to disability separation or retirement, as he was found fit for duty by the PEB and accepted that finding. He noted, however, that Petitioner was denied reenlistment because of a medical condition that precluded his performance of a physical fitness test and being worldwide deployable. He recommended that Petitioner's record be corrected to show that he was discharged by reason of a condition which interfered with his performance of duty, and that he was assigned a separation code GFV1.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board was not persuaded that Petitioner was unfit for duty by reason of physical disability. It concludes further, in light of the contents of enclosure (2), that an injustice exists which warrants the following corrective action.

RECOMMENDATION:

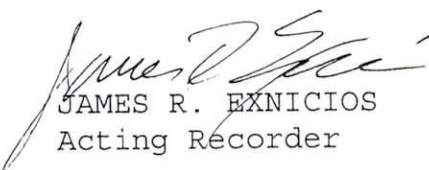
a. That Petitioner's naval record be corrected to show that he was involuntarily discharged on 9 August 2006 for the convenience of the government due to a condition which interfered with his performance of duty, and was assigned separation code GFV1.

b. That so much of Petitioner's request for correction of his naval record as exceeds the foregoing be denied

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