



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

[REDACTED]  
Docket No: 3210-16  
DEC 15 2016

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USMC, XXX-XX- [REDACTED]

Ref: (a) 10 U.S.C. 1552  
(b) SECDEF Memo of 3 Sep 14 "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD"  
(c) PDUSD Memo of 24 Feb 16 "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI"

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Department of Veterans Affairs (VA) PTSD diagnosis  
(4) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that his bad conduct discharge be changed in light of current guidelines as reflected in references (b) and (c). This request impliedly includes a change to the narrative reason for separation. Enclosures (1) through (4) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 18 August 2016, 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. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps, began a period of active duty on 27 June 1963, and served without disciplinary incident for about five months. On 21 November 1963, he received

nonjudicial punishment (NJP) for a one-day unauthorized absence (UA). On 8 June 1964, he received NJP for a three-day UA.

d. Petitioner arrived in [REDACTED] in late November 1964. On 11 January 1965, he received nonjudicial punishment for violation of a general order. He was awarded seven days in correctional custody but during that time he breached custody and sought refuge in alcohol. As a result, he was convicted by special court-martial (SPCM) for breaking restriction. On 20 May 1965, he was convicted by summary court-martial (SCM) for a one-day UA and breaking restriction.

e. From July to October 1965, petitioner served in a Vietnam tour of duty where he was actively engaged in "Operation Starlite".

f. He returned from Vietnam and was assigned to a tour of duty in [REDACTED]. On 13 April 1966, he received NJP for a two-day UA. On 19 May 1966, petitioner was convicted by SPCM of three specifications of UA totaling 20 days. From 30 September 1966 to 30 October 1966 and from 25 November 1966 to January 1967, petitioner absented himself without leave and was convicted at SPCM on 3 March 1967. He was awarded a bad conduct discharge (BCD), and, on 9 June 1967, he was so discharged.

g. Petitioner submitted evidence of his diagnosis and treatment for service connected PTSD. See enclosure (3).

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (3), the Board concludes that Petitioner's request warrants relief. The Board reviewed his application under the guidance provided in references (b) and (c). Specifically, the Board considered whether his application was the type that was intended to be covered by this policy. The purpose of the Secretary of Defense memorandum is to ease the process for veterans seeking redress and assist the Boards in reaching fair and consistent results in "these difficult cases." The memorandum describes the difficulty veterans face on "upgrading their discharges based on claims of previously unrecognized" PTSD. The memorandum further explains that since PTSD was not previously recognized as a diagnosis at the time of service for many veterans, and diagnoses were often not made until after service was completed, veterans were constrained in their arguments that PTSD should be considered in mitigation for misconduct committed or were unable to establish a nexus between PTSD and the misconduct underlying their discharge. In this regard, based upon his record of service, to include combat service in Vietnam, relief in the form of his characterization of service should be changed to general.

The Board notes Petitioner's misconduct and does not condone his actions. However, the Board's decision is based on Petitioner's evidence as reflected in his tour in Vietnam, and subsequent periods of unauthorized absence. The Petitioner's assertion of PTSD was supported with a medical diagnosis and the Board concluded that the time spent in Vietnam, was a causative factor in Petitioner's misconduct. The Board was able to reasonably conclude that the

PTSD condition existed at the time of his misconduct, and subsequently resulted in his bad conduct discharge. After carefully considering all the evidence, the Board felt that Petitioner's assertion of PTSD should mitigate the misconduct he committed while on active duty since this condition outweighed the severity of the misconduct. With that being determined, the Board concludes that no useful purpose is served by continuing to characterize the Petitioner's discharge as a bad conduct discharge, and recharacterization to a general discharge is now more appropriate. 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 was issued a general discharge on 9 June 1967, vice the bad conduct discharge actually issued on that day.

b. That Petitioner be issued a new Certificate of Release or Discharge from Active duty (DD Form 214).

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

d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 13 April 2016.

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.

  
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 Regulation, 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.

  
Executive director