



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

[REDACTED]  
Docket No: 6508-16  
MAR 27 2017

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

Subj: REVIEW OF NAVAL RECORD ICO  
FORMER MBR [REDACTED] XXX-XX-[REDACTED] USMC (DECEASED)

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) through his wife requesting, in effect, that the applicable naval record be corrected to upgrade the characterization of service.
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 February 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, naval records, and applicable statutes, regulations and policies. The Board also considered the case in light of the Secretary of Defense Memorandum of September 3, 2014, Supplemental Guidance to Military Boards of Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder. Additionally, the Board applied the guidance contained in the Deputy Under Secretary of Defense's memo of 24 February 2016.
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 Marine Corps in November 1964 at the age of 17. He served in the Vietnam conflict from 15 August 1965 through 31 July 1966 where he participated in at least six named operations and suffered a gunshot wound to his arm.
  - c. Upon his return to the United States, Petitioner was involved in multiple incidents of unauthorized absences that resulted in two non-judicial punishments and two special courts-martial. His second court-martial resulted in a sentence that included a Bad Conduct Discharge that was executed on 6 December 1968.

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d. Petitioner was granted a Presidential Clemency Discharge on 30 November 1976. He was later diagnosed with Post-Traumatic Stress Disorder and panic attacks. Despite these disability conditions, Petitioner's civilian record contains no additional misconduct except for a driving infraction.

e. On 17 April 1984, BCNR denied a request from Petitioner to upgrade his characterization of service. His requests for reconsideration were denied on 10 May 2005 and 11 September 2007 without a hearing due to the lack of new evidence.

f. Petitioner passed away on 16 September 2015. His wife filed for reconsideration under the Secretary of Defense PTSD Memorandum of September 3, 2014.

g. In regard to Petitioner's request for a personal appearance, the Board determined that a personal appearance was not necessary and considered the case based on the evidence of the record.

## CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the 2014 PTSD policy, the Board concludes that Petitioner's request warrants relief. 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 service in Vietnam and his gunshot wound, 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 Petitioner 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 service as having been under other than honorable conditions, and re-characterization 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.

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RECOMMENDATION:

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

a. Petitioner's received a General Discharge under Honorable Conditions effective the date of his original discharge.

b. 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