



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

[REDACTED]
Docket No: 6819-16
NOV 07 2017

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

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

Ref: (a)10 U.S.C. §1552

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

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 the characterization of his release from active duty under honorable conditions on 3 April 1974, be changed to honorable. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 16 August 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, relevant portion of Petitioner's 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 it appears that 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 and began a period of active duty on 11 March 1974. On 27 March 1974, he appeared before a Medical Board and stated in part that he has suffered with chronic back pain when doing heavy physical exercise for the past three years; and was diagnosed with a defect in his fifth lumbar vertebra. Petitioner revealed his past medical history to Armed Forces Examining and Entrance Station (AFEES) examiners and it was documented with x-rays. The Medical Board diagnosed him with spondylolysis with first

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degree spondylolisthesis, L-5 which existed prior to entry (EPTE). The Medical Board's opinion was that he did not meet the minimum standards for enlistment or induction and recommended that he should be discharged.

d. Petitioner was notified of the recommendation for discharge by reason of erroneous entry, due to failure to meet enlistment physical standards. The separation authority directed discharge with an honorable characterization of service. On 3 April 1974, he was discharged and issued a Certificate of Release or Discharge from Active Duty (DD Form 214) with a general under honorable conditions characterization and not the honorable discharge directed by the separation authority.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner did not hide his condition but provided AFEEs personnel with diagnostic information and an x-ray documenting his condition. Petitioner's enlistment would not have occurred if appropriate directives had been followed. The separation authority directed that Petitioner was to be discharged with an honorable characterization, but he was issued a general certificate. The Board believes that the record should be corrected to reflect that he was released from active duty with an honorable characterization of service. Based on the foregoing, the Board concludes that no useful purpose is served by continuing to characterize his service as having been under honorable conditions. As such, the Board directs the record be corrected to reflect an honorable characterization of service.

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 should be corrected to show that on 3 April 1974, he was honorably discharged from active duty.
- b. That a copy of this Report of Proceeding be filed in Petitioner's naval record.
- c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 26 July 2016.

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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. (c)) it is certified that a quorum was presented 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 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.

[REDACTED]

Executive Director