



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

[REDACTED]
Docket No: 7438-16

AUG 10 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

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Director CORB ltr 5220 CORB: 002 of 24 Apr 2017
(3) Chronological Record of Medical Care from 3 Apr 2013
(4) Petitioner FITNESS Reports

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to have him referred to the Physical Evaluation Board for consideration of placement on the disability retirement list.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 June 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. In addition, the Board considered the advisory opinion contained in enclosure (2); a copy of which was provided to the Petitioner for comment.

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 February 2006 and made three combat deployments to both Iraq and Afghanistan between 2007 and 2010. In his last deployment, he suffered a gunshot wound to his calf in March 2010.

c. Upon his return from Afghanistan in 2010, Petitioner was diagnosed with Post-Traumatic Stress Disorder (PTSD), prescribed Zoloft, and determined not to be psychiatrically fit for duty. He also disclosed a history of alcohol abuse since 2008.

d. Petitioner was returned to full duty in July 2011 but continued to receive treatment for his PTSD until April 2013 when he voluntarily stopped his psychotropic medication. See enclosure (3).

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e. From April 2013 through 31 March 2014, Petitioner received observed Fitness Reports where he received positive performance comments and a rankings that placed him approximately in the middle of his peer group. See enclosure (4). He was also recommended for promotion prior to his discharge at the end of his required active service on 8 June 2014.

MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the majority found the existence of an injustice warranting partial corrective action, and concluded that the Petitioner should be referred to the Physical Evaluation Board for consideration of his PTSD condition. The Majority believes Petitioner was discharged at the end of his obligated active service despite the existence of chronic PTSD and evidence of severe trauma suffered by the Petitioner. In their opinion, despite Petitioner's record of acceptable performance during his treatment for his PTSD condition, he was suffering a substantial occupational impairment that was overlooked by his superiors in issuing him his performance evaluations.

MAJORITY RECOMMENDATION

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

Petitioner was not discharged on 8 June 2014 but referred by a medical board to the Physical Evaluation Board for Post-Traumatic Stress Disorder.

No other relief be granted.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

MINORITY CONCLUSION

A minority of the Board [REDACTED] concluded that insufficient evidence of unfitness for continued naval service exists in Petitioner's record. In making his decision, he substantially concurred with the advisory opinion contained in enclosure (2). Specifically, he determined that Petitioner's performance prior to his discharge did not reflect his PTSD condition created a substantial occupational impairment warranting his referral to a medical board or the Physical Evaluation Board. He also relied upon the fact Petitioner was treated for several years for his PTSD condition and none of the providers determined he qualified for a medical board for his PTSD or felt referral to the Physical Evaluation Board was appropriate.

MINORITY RECOMMENDATION

That Petitioner's request be denied.

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

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FORMER MBR [REDACTED]

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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. The foregoing action of the Board is submitted for your review and action.

[REDACTED]

Executive Director

Majority/Minority Recommendation is Reviewed and Approved

[REDACTED]

9/1/17