



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

Docket No: 4913-17
JAN 26 2019

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED]
XXX XX [REDACTED] USMC

Ref: (a) 10 U.S.C. § 1552

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

1. Pursuant to the provisions of the reference, Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that his other than honorable (OTH) characterization of service be changed. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 September 2018 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 Petitioner's application, together with all material submitted in support thereof, relevant portions of his naval record, 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. On 24 May 1994, Petitioner began a period of active duty. On 24 January 1995, 9 May 1995, and 11 December 1995, Petitioner was counseled regarding his poor judgment, lack of initiative, failure to be at his appointed place of duty, absence from his assigned place of duty, unauthorized absence, false official statement, and disrespect. On 30 June 1995 and 27 October 1995, Petitioner received two non-judicial punishments (NJP) for disobeying a lawful order and two instances of failing to go to his appointed place of duty.

d. On 13 May 1996, Petitioner was diagnosed with a severe personality disorder. Petitioner's

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mental health evaluation noted that his personality disorder was so severe that his ability to function effectively in a military environment was significantly impaired, adding that he had adjusted poorly to the demands of military service despite appropriate leadership counseling, discipline, and other appropriate methods. It was recommended that Petitioner be administratively separated.

e. Subsequently, Petitioner was notified of pending administrative separation action; at which time he waived his rights to consult with counsel and to present his case to an administrative discharge board (ADB). Petitioner's commanding officer (CO) recommended that he be discharged under other than honorable (OTH) conditions. The discharge authority directed that Petitioner be discharged with an OTH characterization of service by reason of misconduct due to minor disciplinary infractions. On 29 July 1996, Petitioner was discharged.

MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board's majority concludes that Petitioner's request warrants relief. In this regard, the majority determined that Petitioner's in-service mental health condition, a severe personality disorder, was reasonably linked to his misconduct. The majority concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under OTH conditions, and that re-characterization to general (under honorable conditions) is now more appropriate. In view of the foregoing, the Board's majority finds the existence of an injustice warranting the following corrective action.

MAJORITY RECOMMENDATION

That Petitioner's naval record be corrected to show that he was discharged with a general (under honorable conditions) characterization of service on 29 July 1996.

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

That a copy of this report of proceedings be filed in Petitioner's naval record.

That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 1 June 2017.

MINORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board's minority concludes that Petitioner's request does not warrant favorable action. In this regard, the minority determined that, although Petitioner had mental issues, there is no nexus in his record or from the opinion of a mental health professional that his misconduct was caused by his mental health issues. The minority concludes further that, if it is determined that Petitioner should have been separated for

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XXX XX [REDACTED] JSMC

medical issues, then his characterization of service should be honorable.

MINORITY RECOMMENDATION

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 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

Board Majority Recommendation Reviewed and Approved / Disapproved:

Board Minority Recommendation Reviewed and Approved / Disapproved:

[REDACTED] 4/24/19