



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

[REDACTED]
Docket No: 5718-17

DEC 28 2018

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

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

Ref: (a) 10 U.S.C. § 1552
(b) DoD Manual 1348.33 (Manual of Military Decorations and Awards)
(c) SECNAVINST 1640.1H (Navy and Marine Corps Awards Manual)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) 1975-1976 Service Record Correspondence
(4) 1990-1991 Service Record Correspondence

1. Pursuant to the provisions of reference (a), Petitioner, a former Marine, filed enclosure (1) with this Board requesting removal of certain erroneous material from his service and medical records generated because his brother stole his identity and fraudulently accessed his service records, and changes to his Certificates of Release or Discharge from Active Duty (DD Form 214), to reflect his entitlement to all awards earned, correctly spell his last name, and correct his birthdate. Enclosures (1) through (4) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 20 November 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 the enclosures, relevant portions of his naval service 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, and although enclosure (1) was not filed by Petitioner in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider his application on its merits.

b. Petitioner initially enlisted in the Marine Corps on 15 October 1970 and received a discharge from the Marine Corps on 9 April 1971 at the completion of his initial training. His home of record was [REDACTED]. Petitioner continued in the Marine Corps on active duty starting on 15 April 1971 and was ultimately discharged on 14 January 1973. Both discharge characterizations were honorable. Following his 1973 discharge at [REDACTED] Petitioner began a law enforcement career with the [REDACTED] Sheriff's Office.

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

and ultimately retired after 30 years of service with the [REDACTED] State Highway Patrol. Petitioner still resides in [REDACTED] today.

c. Petitioner's full name is [REDACTED]. Petitioner's brother was named [REDACTED] and was born in 1952. [REDACTED] social security number only differed from [REDACTED] by the last digit. [REDACTED] had enlisted in the Marine Corps in 1971 but was discharged six weeks into his enlistment for a failure to adapt. [REDACTED] received a general (under honorable conditions) discharge and was assigned an RE-4 code. Subsequently, in March 1973, [REDACTED] successfully petitioned a [REDACTED] state court (under false pretenses) to change his name to [REDACTED]. [REDACTED] was also subsequently convicted of a felony and sentenced to confinement in a [REDACTED] state Penitentiary.

d. [REDACTED] using his new legal name of [REDACTED] effectively stole the identity of Petitioner and fraudulently obtained his Marine Corps service and medical records on multiple occasions for personal gain. Petitioner's military records contain two different groups of correspondence related to [REDACTED] fraudulent records requests. The first group (contained in enclosure (3)), ranges from 21 August 1975 through 8 June 1976, and the second group (contained in enclosure (4)), ranges from 13 February 1990 through 18 October 1991. It is clear such records requests were not initiated by Petitioner. Such records requests were originated from [REDACTED] addresses, although, at the same time, Petitioner continued to reside and work in [REDACTED]. Additionally, [REDACTED] signatures on the requests (purportedly Petitioner's) clearly do not match Petitioner's handwriting. Finally, some of the records requests were originated on [REDACTED] behalf by an advocacy group entitled [REDACTED] while [REDACTED] was serving prison time in the [REDACTED] State Penitentiary. The Board concluded that both groups of correspondence (enclosures 3 and 4) were unauthorized and clearly fraudulently originated and should be removed from Petitioner's service record.

e. Petitioner's record contains two (2) separate Report of Transfer or Discharge (DD-214) forms.

- 1) The first DD-214 is dated 9 April 1971 ("1971 DD-214"), and has Petitioner's name misspelled in block 1, and an incorrect birthdate in block 9. The 1971 DD-214 reflects entitlement to the Rifle Expert Badge.
- 2) The second DD-214 is dated 14 January 1973 ("1973 DD-214"), has an incorrect birthdate in block 9. The 1973 DD-214 reflects entitlement to the National Defense Service Medal.

f. Petitioner provided a copy of his birth certificate to verify his correct birthdate. The Board concluded that both the 1971 DD-214, and the 1973 DD-214 forms should be corrected to reflect his accurate date of birth of [REDACTED] in block 9, and that the 1971 DD-214 should reflect his correct last name of [REDACTED] vice [REDACTED].

g. In the United States Marine Corps, certain military occupational specialty (MOS) codes require Marines to periodically re-qualify with both the rifle and pistol. Petitioner's MOS of 5811 (Military Police) required re-qualification. Marines are authorized to wear on their uniform

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

their most recent qualifying level for both rifle and pistol. Petitioner's service record indicates that he qualified at the sharpshooter level of proficiency for both rifle and pistol twice during this enlistment—on 23 July 1971 and 24 March 1972. Accordingly, despite having previously qualified as an expert with the rifle in his initial tour of active duty, the Board concluded that Petitioner's 1973 DD-214 should reflect entitlement to both the Rifle Sharpshooter and Pistol Sharpshooter Badges—the last qualifications he achieved with each weapon, respectively, on 24 March 1972.

h. Petitioner also requested that his service record reflect entitlement to the Vietnam Service Medal, American Defense Medal, Honorable Discharge Medal, USMC Service Medal, and Cold War Service Medal. The Board, however, determined that Petitioner either did not meet the baseline eligibility criteria by not serving in a qualifying overseas theater of operations (e.g., Vietnam Service Medal), served outside the eligibility time period of such award (e.g., American Defense Medal (ended 1941)), or requested awards that are not official Department of Defense or USMC-authorized awards (e.g., Honorable Discharge Medal, USMC Service Medal, and Cold War Service Medal).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board determined that Petitioner's request warrants relief.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

That both groups of correspondence as provided for in enclosures (3) and (4) be removed in their entirety from Petitioner's service and medical record, as applicable.

For the 1971 DD-214, that Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215), to reflect his accurate date of birth of [REDACTED] in block 9 and his correct last name of [REDACTED] in block 1.

For the 1973 DD-214, that Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215), to reflect his accurate date of birth of [REDACTED] in block 9 and indicate his entitlement to the National Defense Service Medal, Rifle Sharpshooter Badge, and Pistol Sharpshooter Badge in Block 24.

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 27 June 2017.

4. 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.

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

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