



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

[REDACTED]  
Docket No: 6589-17

APR 15 2019

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

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

- Ref: (a) 10 U.S.C. § 1552  
(b) SECDEF memo of 3 Sep 14, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD"  
(c) PDUSD memo of 24 Feb 16, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI"  
(d) PDUSD memo of 25 Aug 17, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault or Sexual Harassment"

- Encl: (1) DD Form 149 with attachments  
(2) Subject's naval record (excerpts)  
(3) Post-service PTSD diagnosis of 28 Oct 14  
(4) BUMED Advisory Opinion of 19 Jul 78

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 his other than honorable (OTH) characterization of service be changed in light of current guidelines set forth in references (b) through (d).

2. The Board consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 December 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, applicable statutes, regulations, and policies, as well as a 19 July 1978 advisory opinion (AO) provided by Navy Bureau of Medicine and Surgery (BUMED).

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. Petitioner enlisted in the Marine Corps on 3 October 1968. During the period from 21 April to 28 December 1971, he received non-judicial punishment for being in an off-limits area. He was also convicted by special court-martial (SPCM) of unauthorized absence (UA) totaling 87 days. On 11 April 1973, a psychiatrist diagnosed him with severe, acute, anxiety neurosis with deep-seated anger boarding on paranoia and impulsivity. On 25 April 1973, he submitted a written request for discharge for the good of the service to avoid trial by court-martial for two specifications of UA totaling 288 days. Prior to submitting this request, he conferred with a qualified military lawyer, at which time he was advised of his rights and warned of the probable adverse consequences of accepting such a discharge. His request was granted, and his commanding officer (CO) was directed to discharge him for the good of the service with an other than honorable (OTH) characterization of service. As a result, he was spared the stigma of a court-martial conviction, as well as the potential penalties of such a punitive discharge. On 6 June 1973, he was discharged.

d. On 28 July 2017, Petitioner requested consideration of his case based on his assertion of undiagnosed and untreated service-connected PTSD. The Board was provided an AO dated 19 July 1978, attached as enclosure (4). The AO concluded that Petitioner suffered from a psychiatric illness at the time of his return from Vietnam, which resulted in several UAs. See enclosure (4).

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosures (3) and (4), the Board concluded that Petitioner's request warrants relief. Additionally, the Board reviewed his application under the guidance provided in references (b) and (c). Specifically, the Board considered whether his application was the type that was intended to be covered by this policy.

In this regard, based upon his record of service, the post-service diagnosis dated 28 October 2014, and the AO dated 19 July 1978, relief in the form of changing his characterization of service to general (under honorable conditions) is appropriate. The Board noted Petitioner's misconduct and does not condone his actions. However, the Board's decision is based on Petitioner's evidence as reflected in the AO and his post-service diagnosis. The Board was able to reasonably conclude that his PTSD condition existed at the time of his misconduct, and subsequently resulted in his OTH discharge. After carefully considering all the evidence, the Board felt that Petitioner's assertion of PTSD should mitigate the misconduct he committed while on active duty since this condition outweighed the severity of the misconduct.

The Board concluded that no useful purpose is served by continuing to characterize the Petitioner's service as having been other than honorable, and re-characterization to a general

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XXX-XX-[REDACTED]

discharge is now more appropriate. In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner's naval record be corrected to show that he was issued a general discharge on 6 June 1973, rather than the OTH discharge actually issued on that day.

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 28 July 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.

[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