



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

[REDACTED]  
Docket No: 6787-17  
FEB 25 2018

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

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

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

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

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 place him on the Permanent Disability Retirement List.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 February 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 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. Petitioner entered active duty with the Marine Corps in August 2006. He deployed to Afghanistan in 2010 suffered leg and feet injuries after his exposure to an improvised explosive device (IED) explosion on 8 October 2010.

c. After receiving extensive treatment for injuries, Petitioner was eventually referred to a medical board and Physical Evaluation Board (PEB) for his disability conditions. The PEB found him unfit for continued naval service due to bilateral leg pain and rated his unfitting conditions a combined 20% consistent with Department of Veterans Affairs (VA) issued disability ratings. After accepting the PEB findings, the Petitioner was discharged with severance pay.

d. Petitioner applied to this Board in 2014 requesting the addition of two disability conditions to his PEB findings but was denied relief due to lack of evidence.

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

e. In 2017, Petitioner's left leg was amputated below his knee stemming from a progression on his left leg injuries caused by the IED. On 1 October 2017, the VA rated Petitioner's left leg amputation at 40% with his use of a prosthesis.

#### CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action.

The Board concluded no error was committed by the PEB in adjudicating Petitioner's case but felt a change was warranted to his record based on an injustice. In the Board's opinion, Petitioner's below knee amputation of his left leg due to injuries suffered while on active duty was sufficient evidence of an injustice to change his PEB record to reflect his placement on the Permanent Disability Retirement List consistent with his current VA disability rating for his amputation.

#### RECOMMENDATION:

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

Petitioner was placed on the Permanent Disability Retirement List effective 1 June 2013 with a combined disability rating of 40%.

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

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