



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 7476-01
19 September 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 September 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Department of Psychiatry, Naval Medical Center, Portsmouth, Virginia, dated 2 July 2002, a copy of which is attached. The Board also considered your rebuttal statement of 30 August 2002.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion to the effect that you were responsible for your actions. Therefore, the Board concluded that given your three nonjudicial punishments, one of which was for drug use, favorable action is not warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

DEPARTMENT OF PSYCHIATRY
NAVAL MEDICAL CENTER
PORTSMOUTH, VIRGINIA 23708-2197

2 JUL 02

From: Case Reviewer
To: Chairman, Board for Correction of Naval Records,
Department of the Navy, Washington, D.C. 20370-2179

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN THE CASE
OF [REDACTED]

Ref: (a) Your ltr of 17 MAY 02

Encl: (1) BCNR file

1. Pursuant to reference (a), a review of enclosure (1) was conducted to form opinions about subject petitioner's claim that he suffered from Post-Traumatic Stress Disorder (PTSD) at the time of his military service, and that the PTSD contributed significantly to the misconduct which resulted in his discharge.
2. The facts of the case:
 - a. On 01 MAY 82 the petitioner was involved in a shooting incident while on gate duty at Quantico, Virginia. During the incident, the petitioner received shrapnel wounds and cuts from broken glass. He was also protecting the other gate guard, who had received more serious shotgun wounds, until further assistance arrived.
 - b. The petitioner was evaluated by [REDACTED] MSC USN, a Psychologist at Quantico, on 16 APR 84. The petitioner was referred by his chain of command for concern about his alcohol use. Dr Sherman noted "a considerable amount of unresolved anger" related to the shooting incident, leading to an "almost rage like feeling.... Part of the response to this stressor has been an increase in drinking.... made worse by the patient's perception of being ostracized and criticized by his unit" following the incident. LCDR Sherman also described "a number of intrapsychic conflicts including.... a post-traumatic stress syndrome." The petitioner was diagnosed using the Diagnostic and Statistical Manual, Third Edition (DSM-III) with Adjustment Reaction of Adult Life and Alcohol

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Dependence. He recommended inpatient treatment in an Alcohol Rehabilitation Service.

- c. On 17 AUG 01, in a statement on VA form 21-22 in support of his claim for benefits from the VA, the petitioner described feeling harassed by his chain of command after the shooting incident. He stated that, around the time of his psychological evaluation of 16 APR 84 he concluded, "if I became a problem/doing marijuana [sic], that I would eventually get caught and would be discharged from the Marines.... Then I hoped I could put this all behind [me] and get on with my life."
- d. On 06 SEP 84 the petitioner was found guilty at NJP of using "some amount of marijuana during Apr/May 1984." On 04 DEC 84 he was discharged under Other than Honorable Conditions/Misconduct for drug abuse.
- e. On 29 NOV 84 during his separation physical, the petitioner did not report any "frequent trouble sleeping, depression or excessive worry [or] nervous trouble of any sort" on his SF-93, Report of Medical History.
- f. On 19 OCT 99 [REDACTED] a Clinical Psychologist in Austin, Texas sent a letter to the VA in which he stated the petitioner's military record and background "sound very much like he was suffering Post Traumatic [sic] Stress Disorder."

3. THE FOLLOWING OPINIONS ARE SUBMITTED:

- a. [REDACTED]'s note from 16 APR 84 refers to a "post-traumatic stress syndrome," but the DSM-III did not include the diagnosis of PTSD. The specific symptoms leading to this impression are not fully documented, however significant anger and preoccupation with the event are noted.
- b. The petitioner's written statement dated 17 AUG 01, it appears he contemplated engaging in misconduct or using cannabis in an effort to get caught and discharged from the Marine Corps. It appears that these thoughts occurred to him during the same time frame as the cannabis use that led to his separation, and strongly suggests that the

misconduct that resulted in his discharge was intentional and achieved his desired results. That said, if he was suffering from PTSD at that time, he likely would have had a strong desire to isolate himself from others and avoid things and situations that reminded him of the shooting. This in turn could have led him to seek discharge from the USMC as a way to reduce his symptoms.

4. RECOMMENDATION: Based on review of the provided documentation, there is significant evidence to justify a diagnosis of Post-Traumatic Stress Disorder. In addition, if he was suffering from PTSD at the time of his misconduct, this could have significantly contributed to his behavior at that time. It should be noted that PTSD was not a universally recognized or accepted disorder in 1984, and thus treatment might not have been readily available. From a forensic psychiatry standpoint, however, for the petitioner to have been found to lack responsibility for his actions, he would have to have been shown to either not have understood the nature and quality of his actions, or to have not understood their wrongfulness. Based on his own statement, there is significant evidence that neither of these applied in this case. Indeed the evidence suggests that he did understand the nature, quality, and wrongfulness of using marijuana. Therefore, while the member's PTSD did significantly contribute to his misconduct, he was responsible for this action.

5. This review was conducted by [REDACTED] MC, USN, board certified forensic psychiatrist.

[REDACTED]