



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

██████████
Docket No: 3677-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████, USN, XXX-XX-██████████

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD," of 3 September 2014
(c) PDUSD memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI," of 24 February 2016
(d) PDUSD memo, "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," of 25 August 2017
(e) USECDEF Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

Encl: (1) DD Form 149 with attachments

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to reflect an honorable characterization of service, that his narrative reason for separation and corresponding separation codes be changed to Secretarial Authority, and that his reenlistment code be upgraded to RE-1.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 22 October 2021 and, pursuant to its regulations, determined the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency

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determinations (Wilkie Memo). Additionally, the Board considered the advisory opinion (AO) furnished by a qualified mental health provider.

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 interests of justice to review the application on its merits.

c. Petitioner enlisted and began active duty in the Navy on 23 November 1982. He received nonjudicial punishment (NJP) for a two hour unauthorized absence (UA) in violation of Article 86, Uniform Code of Military Justice (UCMJ) on 7 March 1984. His second NJP occurred on 2 October 1985 for a one day period of UA and missing movement in violation of Articles 86 and 87, UCMJ. On 26 November 1986 Petitioner was convicted by special court martial (SPCM) of two specifications of UA, for periods of 64 and 65 days, and for missing movement in violation of Articles 86 and 87, UCMJ. Petitioner was sentenced to confinement for a period of 60 days, forfeiture of pay for two months, reduction to the paygrade of E-1, and separation from the naval service with a bad conduct discharge. Petitioner was so discharged on 22 July 1987.

d. On 14 December 2018 Petitioner was diagnosed by a civilian provider with PTSD, chronic, severe, secondary to being severely attacked.

e. As part of the Board's review, a qualified mental health provider reviewed Petitioner's available records and provided an AO dated 8 October 2021. The AO notes that Petitioner's current treating clinician opined Petitioner suffered from PTSD stemming from incidents while in service, which affected his cognitive behavior. Petitioner's record indicated a history of UA throughout his military service, which could be consistent with PTSD avoidance symptoms, as he contended that he incurred hazing throughout his military service. Furthermore, the AO concluded that based on the current available evidence, there is evidence that Petitioner experienced PTSD due to his military service and that his misconduct could be mitigated by a mental health condition.

f. Petitioner contends that while in-service he suffered from unsurmountable stress due to his father passing away and his spouse attempting suicide. He further contends he also dealt with work-related stress due to several instances of hazing by fellow Sailors, one instance of which resulted in severe physical violence causing severe injuries to his head, face, and chest. Petitioner states the combination of work and personal stress resulted in his decision to take an unauthorized leave of absence. He further states the majority of his service was honorable and since discharge he has sought to improve himself through career goals and accomplishments.

g. Petitioner provided documentation in support of his clemency request to indicate he has held several employment positions as a security officer and participated in a certified nurse

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assistant program. Additionally, he provided two character references on his behalf corroborating his contentions.

CONCLUSION:

The Board reviewed Petitioner's application under the guidance provided in references (b) through (e). Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief and that his characterization of service should be corrected to reflect general (under honorable conditions).

The Board, applying liberal consideration, concurred with the AO; however found no injustice in the characterization of service awarded to Petitioner at the time of discharge based on the severity of missing movement twice. However, in accordance with the factors noted in reference (e), the Board determined that a grant of clemency was warranted based on Petitioner's positive post-service conduct. Accordingly, in the interests of justice and in light of the potential for future negative implications, the Board further determined Petitioner's narrative reason for separation, separation authority, and separation code should be changed to "Secretarial Authority."

RECOMMENDATION:

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

Petitioner be issued a new DD Form 214 indicating the characterization of service as "General (Under Honorable Conditions)," narrative reason for separation as "Secretarial Authority," separation authority as "MILPERSMAN 1910-164," and separation code as "JFF." Petitioner's reenlistment code shall remain the same.

That no other changes be made and a copy of this report of proceedings 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.
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 Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

11/8/2021

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Executive Director

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