



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

██████████
Docket No: 4418-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████
USN, ██████████

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 3 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USD Memo of 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Advisory Opinion of 13 October 2021

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.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 3 December 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 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. Petitioner enlisted and began active duty in the Navy on 19 August 1974. He was assigned to the ██████████ and participated in ██████████, the evacuation of

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[REDACTED] after 19 April 1975. On 19 December 1975 Petitioner received nonjudicial punishment (NJP) for a three day period of unauthorized absence (UA) and missing ship's movement in violation of Articles 86 and 87, Uniform Code of Military Justice (UCMJ). On 6 April 1976 Petitioner was convicted by summary court martial for a 32 day period of UA in violation of Article 86, UCMJ. On 8 April 1976 Petitioner underwent a psychiatric evaluation. Petitioner was notified of administrative separation processing on 15 April 1976 and was discharged on 19 April 1976 with a general (under honorable conditions) characterization of service.

c. Petitioner was diagnosed by the Department of Veterans Affairs (VA) with service connected PTSD and granted an evaluation of 70% effective 20 February 2014.

d. As part of the Board's review, a qualified mental health provider reviewed Petitioner's available records and provided an AO dated 13 October 2021. The AO notes that Petitioner has submitted VA evidence of a service-connected PTSD. The AO further states that Petitioner's in-service misconduct occurred after his participation in the evacuation of South Vietnam and is consistent with PTSD symptoms of avoidance UA. Consequently, the AO concluded that there is evidence that Petitioner incurred PTSD or another mental health condition during his military service and there is evidence that his misconduct could be attributed to symptoms of PTSD or another mental health condition.

e. Petitioner contends he was on board the [REDACTED] when his ship took part in the evacuation of people after the fall of [REDACTED]. He states he had a feeling of retreat and of losing the war. He further contends his ship brought less than 4,000 people on board and he remembers their faces, terrified and afraid. Petitioner states the psyche and motivation of he and his shipmates were affected by this movement and that after returning home, he got into an altercation with one of his supervisors and had a feeling of wanting to come home. He states he went UA and was out processed. Post-service, Petitioner states he started his life again, worked for the federal government, married and had a family.

f. Petitioner provided documentation in support of his request to indicate he has worked for 30 years in the federal government to include the [REDACTED] and [REDACTED]. Additionally, he provided three character references on his behalf.

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 full relief and that his characterization of service should be corrected to reflect honorable.

The Board, applying liberal consideration and relying on the AO, determined there was sufficient evidence to support a finding that Petitioner suffered from a mental health condition while in-service. Furthermore, the Board found Petitioner's detailed personal statement to be credible and found a nexus between the condition and the misconduct. Additionally, in accordance with the factors noted in reference (e), the Board determined that a grant of clemency was warranted

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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" and that his reenlistment code should reflect "RE-1."

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 "Honorable," narrative reason for separation as "Secretarial Authority," separation authority as "MILPERSMAN 1910-164," separation code as "JFF," and reenlistment code as "RE-1."

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

12/25/2021

[REDACTED]

Executive Director

[REDACTED]