



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

██████████
Docket No: 5187-20
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER, ██████████ 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 Post Traumatic Stress Disorder," of 3 September 2014 (Hagel Memo)
(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) USD Memo, "Clarifying Guidance to Military Discharge Review Boards and 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 (Kurta Memo)
(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 w/attachments
(2) Nonjudicial punishment of 30 Jul 81
(3) Counseling/Retention Warning of 7 Aug 81
(4) Nonjudicial punishment of 26 Aug 81
(5) Nonjudicial punishment of 17 Sep 81
(6) May to November 1983 Lebanon Service
(7) Reenlistment of 14 Mar 85
(8) Counseling/Retention Warning of 18 Sep 87
(9) Nonjudicial punishment of 5 Aug 87
(10) Chemical Dependency Evaluation of 11 Aug 87
(11) Drug/Alcohol Evaluation of 4 Sep 87
(12) Drug and Alcohol Abuse Rehabilitation (DAAR) Program of 15 Sep 87
(13) DAAR report of 14 Oct 87
(14) CO Administrative Separation ltr of 23 Oct 87
(15) Separation Authority ltr of 1 Nov 87
(16) Certificate of Release or Discharge from Active Duty (DD Form 214) of 12 Nov 87
(17) Advisory Opinion of 4 Apr 21

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 other

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than honorable (OTH) characterization of service be upgraded to General (under honorable conditions) due to Post-Traumatic Stress Disorder (PTSD). Enclosures (1) through (17) apply.

2. The Board reviewed Petitioner's allegations of error and injustice on 7 June 2021, and pursuant to its regulations, determined that the below action should be taken. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include references (b) through (e).

Additionally, The Board also considered, enclosure (15), the advisory opinion (AO) furnished by a qualified mental health provider, which was previously provided to Petitioner. Although Petitioner was afforded an opportunity to submit a rebuttal, Petitioner did not do so.

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. On 30 July 1981 Petitioner received nonjudicial punishment (NJP) for damaging government property. See enclosure (2).

c. On 7 August 1981 Petitioner was informed he was being retained in the Navy. However, any further misconduct could result in administrative discharge action. See enclosure (3).

d. On 26 August and 17 September 1981 Petitioner received NJP for assault, and possession of drug paraphernalia with residual testing positive for marijuana/hashish. See enclosures (4) and (5).

e. During the period from May to November 1983 Petitioner participated in Lebanon service. See enclosures (6)

f. On 14 March 1985 Petitioner reenlisted in the Navy after serving over four years of honorable service. See enclosures (7)

g. On 18 September 1987 Petitioner was counseled concerning his drug abuse identified during a command sweep on 14 July 1987. He was warned that further deficiencies in his performance and/or conduct could result in administrative discharge action. See enclosure (8).

h. On 5 August 1987 Petitioner received NJP for wrongful use of cocaine and received a forfeiture of pay and a reduction in paygrade. See enclosure (9).

i. On 11 August 1987 a Chemical Dependency Evaluation reported that Petitioner "may indeed be psychologically addicted to cocaine. He is not physiologically addicted at this time. He is responsible for his actions." See enclosure (10).

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j. On 4 September 1987 a Drug/Alcohol Evaluation stated that Petitioner revealed pre-service alcohol abuse and use of marijuana, hashish, amphetamines, cocaine, and PCP and, noted that Petitioner's history of drug and alcohol abuse provided by the Petitioner was reliable. The evaluation further noted that Petitioner's attitude and cooperation were good, and he appeared not to be psychologically dependent on cocaine as indicated by short duration of use, amount used and the ability to abstain. It further appeared that the incident for which he was screened was a situational display of poor judgement. See enclosure (11).

k. On 15 September 1987 a Drug and Alcohol Abuse Rehabilitation (DAAR) Program identified Petitioner as an apparent drug abuser, he was considered a good Sailor for continued Navy service, and he was referred to a rehabilitation program. Additionally, he was disqualified from the a Navy School Program until notified by his commanding officer. See enclosure (12).

l. On 14 October 1987 a DAAR determined Petitioner was not dependent, and recommended Level I treatment, and separation from the Navy via a Department of Veterans Affairs hospital. Further, Petitioner was notified of administrative discharge action due to drug abuse. After being afforded his procedural rights, he elected to waive his right to request to have his case heard before an administrative discharge board. See enclosure (13).

m. On 23 October 1987 Petitioner's case was forwarded to the separation authority with a recommendation that he receive an other than honorable (OTH) discharge for misconduct due to drug abuse. See enclosure (14).

n. On 1 November 1987 the separation authority directed that Petitioner be separated from the Navy with and OTH discharge due to drug abuse. See enclosure (15).

o. On 12 November 1987 Petitioner was discharged from the Navy with and OTH characterization of service. See enclosure (16).

p. In his application, Petitioner stated he experienced untreated PTSD from the Beirut Bombing during first enlistment, and resorted to self-medication during second enlistment. Additionally, he was stationed at ██████████ from 20 February to 15 June 1981, where water contamination was found, and the chemical toxicity has been shown to cause neurobehavioral effects including PTSD.

q. Enclosure (17) is an AO provided to the Board which concluded that there is sufficient evidence Petitioner exhibited behaviors associated with a mental health condition during his military service and his misconduct, after the purported trauma, may be mitigated by his mental health condition.

MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Majority concluded that the Petitioner's request warrants favorable action in the form of relief. The Majority reviewed his application under the guidance provided in references (b) through (e) intended to be covered by this policy.

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In this regard, the Majority noted Petitioner's misconduct, and does not condone his actions however, based upon Petitioner's overall record, in light of the AO, and given Majority's current understanding of mental health conditions, relief in the form of a General (under honorable conditions) characterization of service should be given.

MAJORITY RECOMMENDATION

In view of the above, the Board Majority recommends the following.

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) signifying that on 12 November 1987, Petitioner received a General (under honorable conditions) characterization of service.

No further action be granted.

MINORITY CONCLUSION

The Board Minority disagreed with the Board Majority, and concluded that Petitioner's request does not warrant relief based on his pre-service and service drug involvement and abuse prior to his traumatic experience Lebanon, and his drug use and abuse during his last enlistment leading to his discharge due to wrongful use of cocaine.

MINORITY RECOMMENDATION

Petitioner's request be denied.

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.
5. The foregoing action of the Board is submitted for your review and action.

6/28/2021

[REDACTED]

Executive Director

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Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Majority Recommendation (Grant Relief)

~~Reviewed and Approved Minority Recommendation (Deny Relief)~~

7/13/2021

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]