



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

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Docket No: 7998-20
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) USD 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
(c) USD 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) DD Form 214
(3) Standard Form 613, Medical Record: Consultation Sheet, 10 Sep 82
(4) █ █ █ CO Memo, subj: Discharge, 20 Sep 82
(5) █ Form 1900-1C, Advice to Respondent Recommended for Administrative Discharge, 20 Sep 82
(6) █ 1900-1, Recommendation for Administrative Discharge, 6 Oct 82
(7) Standard Form 502, Medical Record: Narrative Summary (Clinical Resume), 1 Dec 82
(8) █ Memo 7/WCS/tnp 1910, subj: Administrative discharge authorization; case of [Petitioner], 29 Nov 82
(9) █ CTS Letter, re: Veteran [Petitioner], 25 Jun 18
(10) Department of Veterans Affairs Medical Opinion, Disability Benefits Questionnaire, 25 Sep 19
(11) BCNR Advisory Opinion, 23 May 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 characterization of service be upgraded to honorable.

2. The Board reviewed Petitioner's allegations of error or injustice on 12 July 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references

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(b) and (c).

3. The Board, having reviewed all of the facts of record pertaining to Petitioner's allegations of error or 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 waive the statute of limitations and review Petitioner's application on its merits.

c. Petitioner enlisted in the Marine Corps and began a period of active duty service on 19 January 1981. See enclosure (2).

d. On 10 September 1982, Petitioner was diagnosed with a Mixed Personality Disorder after ingesting bleach in a suicidal gesture on 31 August 1982. His mental health provider recommended that he be administratively separated as soon as possible since the likelihood of further suicidal gestures was very high if he remained in the Marine Corps. See enclosure (3).

e. On 14 September 1982, Petitioner made another suicidal gesture by ingesting 12 aspirin pills. See enclosure (4).

f. On 20 September 1982, Petitioner was notified that he was being processed for an administrative discharge for unsuitability due to character and a behavior disorder. See enclosure (4).

g. On 20 September 1982, Petitioner elected not to submit a statement on his own behalf or to consult with an attorney. See enclosure (5).

h. On 6 October 1982, Petitioner's commander recommended to the separation authority that he be discharged from the Marine Corps with a general (under honorable conditions) characterization of service for character and behavior disorder. See enclosure (6).

i. On 27 October 1982, Petitioner was hospitalized after he started throwing food, exposed himself, and urinated on several Marines. His previous Mixed Personality Disorder diagnosis was confirmed and another medical recommendation was made to administratively separate Petitioner from the Marine Corps as soon as possible. See enclosure (7).

j. By memorandum dated 29 November 1982, the separation authority directed that Petitioner be discharged from the Marine Corps with a general (under honorable conditions) characterization of service for unsuitability. See enclosure (8).

k. On 1 December 1982, Petitioner was discharged from the Marine Corps with a general (under honorable conditions) characterization of service due to unsuitability. See enclosure (2).

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l. On 25 June 2018, a mental health provider opined that Petitioner's correct primary diagnosis was Bipolar Disorder Type II, with mood-congruent psychotic features, and that the onset of his psychiatric symptoms began during Petitioner's service in the Marine Corps. See enclosure (9).

m. On 25 September 2019, a psychologist evaluating Petitioner pursuant to his claim for disability benefits found evidence in Petitioner's medical record supporting the diagnosis of Bipolar Disorder Type II (severe), with mood-congruent psychotic features. This provider stated that it is at least as likely as not that Petitioner's Bipolar Disorder Type II was worsened beyond its natural progression by the requirements of his military service. See enclosure (10).

n. Petitioner contends that he was misdiagnosed with a "Mixed Personality Disorder," when in fact he was suffering from the early onset of Bipolar Disorder Type II symptoms. He further contends that he was awarded a service-connected disability rating for Bipolar Disorder Type II by the Department of Veterans Affairs (VA) in January 2020.¹ See enclosure (1).

o. Petitioner's application and records were reviewed by a qualified mental health expert, who provided an advisory opinion (AO) for the Board's consideration. The AO concurred with Petitioner's contention that he was experiencing the early symptoms of Bipolar Disorder Type II (Depression with hypomanic episodes) during his military service that contributed to his diminished performance, multiple psychiatric evaluations/hospitalizations for suicidal gestures, and impulsive/inappropriate behavior. It also informed the Board that it can be difficult to differentiate between a personality disorder and Bipolar Disorder, especially Type II, in young adults, but that the long duration of Petitioner's depressive symptoms and the fact that they do not seem to be tied to specific stressors, along with his described hypomanic and psychotic symptoms, makes it more likely that Petitioner's in-service mental health condition was the early onset of Bipolar Disorder symptoms. The AO found that Petitioner was experiencing the early psychological symptoms of Bipolar Disorder Type II during his military service, and that these symptoms directly contributed to his degraded performance/behavior and may have mitigated the behavior that resulted in his general discharge. See enclosure (11).

MAJORITY CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Majority of the Board determined that relief is warranted in the interests of justice.

Because Petitioner based his claim for relief in whole or in part upon his claimed mental health condition(s) and the effect that it may have had upon his conduct, the Majority reviewed Petitioner's application in accordance with the guidance of reference (b). Accordingly, the Majority applied liberal consideration to Petitioner's contention that his Bipolar Disorder Type II condition was misdiagnosed as a personality disorder, and that the conduct that resulted in this diagnosis and separation was mitigated by the symptoms of his mental health condition. In this regard, the Majority substantially concurred with the findings of the AO that there is sufficient

¹ Petitioner did not provide documentation of the determination by the VA, but this result seems likely given the content of enclosure (10).

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evidence that Petitioner was actually suffering from the early onset of Bipolar Disorder Type II, rather than from a personality disorder, during his military service, and that the conduct which resulted in this misdiagnosis and ultimately his separation was mitigated by his actual mental health condition.

In addition to applying liberal consideration to Petitioner's mental health condition and the effect that it may have had upon his conduct in accordance with reference (b), the Majority also considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (c). In this regard, the Majority considered, among other factors, the mitigating effect of the early onset of Petitioner's Bipolar Disorder Type II symptoms, as discussed above; that Petitioner was misdiagnosed with a personality disorder, and as a result he may have continued suffering the symptoms of his Bipolar Disorder long after his discharge from the Marine Corps; the possibility that Petitioner's military service worsened Petitioner's Bipolar Disorder symptoms beyond their normal progression, as suggested in enclosure (10); that Petitioner almost certainly would not have been assigned the same characterization of service under similar circumstances today; that the only "conduct" that contributed to Petitioner's discharge was his suicidal gestures, which was likely beyond his control due to his mental health condition; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner's discharge. Based upon this review, the Majority found that an upgrade to Petitioner's characterization of service is clearly warranted under the totality of the circumstances.

In addition to determining that Petitioner's characterization of service should be upgraded in the interests of justice, the Majority also determined that Petitioner's narrative reason for separation should be changed for the same reason to minimize the possibility of adverse inferences being drawn from Petitioner's discharge from the Marine Corps in the future.

MAJORITY RECOMMENDATION:

In view of the above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 214 reflecting that his service for the period between 19 January 1981 and 1 December 1982 was characterized as "Honorable"; that the narrative reason for his separation was "Secretarial Authority"; that his separation authority was "MARCORSEPMAN par 6214"; and that his separation code was "JFF1."

That Petitioner be issued an Honorable Discharge certificate.

That a copy of this record of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken.

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MINORITY CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Minority found insufficient evidence of any error or injustice warranting relief.

The Minority also applied liberal consideration to Petitioner's contention that his Bipolar Disorder was misdiagnosed as a personality disorder and the effect that his actual mental health condition may have had upon his conduct in accordance with reference (b), and considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (c). While the Minority agreed that there is sufficient evidence to establish that the conduct which resulted in Petitioner's diagnosed personality disorder was in fact the early onset of Bipolar Disorder, and that these symptoms may have mitigated Petitioner's misconduct, the Minority still did not believe that an upgrade to Petitioner's characterization of service was warranted under the totality of the circumstances. In reaching this conclusion, the Minority noted that Petitioner was not discharged for misconduct. Therefore, there was nothing for his Bipolar Disorder to mitigate. Additionally, the Minority noted that Petitioner's conduct and performance trait ratings dropped far below the threshold required for honorable service as early as 1 February 1982, which was before any of the events which prompted his mental health referral. Finally, the Minority noted that Petitioner's general (under honorable conditions) characterization of service is not adverse, and does not deprive Petitioner of any of the service-connected benefits to which he would otherwise be entitled. Accordingly, the Minority found no injustice in Petitioner's characterization of service given the totality of the circumstances.

MINORITY RECOMMENDATION:

In view of the above, the Minority of the Board recommends that no corrective action be taken on Petitioner's naval record.

4. It is certified that 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 titled matter.
5. The foregoing action of the Board is submitted for your review and action.

7/21/2021

[REDACTED]

Executive Director

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ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

MAJORITY Recommendation Approved (Upgrade to Honorable; Change to Secretarial Authority)

MINORITY Recommendation Approved (Deny Relief)

[REDACTED] 8/17/2021

[REDACTED]
Assistant General Counsel (M&RA)

Signed by [REDACTED]