



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

█
Docket No: 8050-20
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
USMC, 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 her naval record be corrected to reflect a general (under honorable conditions) characterization of service.

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 21 July 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, which was previously provided to Petitioner.

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 entered a period of active duty in the Marine Corps on 27 July 1982. On 23 August 1983 Petitioner received nonjudicial punishment (NJP) for failure to go to her appointed place of duty in violation of Article 86, Uniform Code of Military Justice (UCMJ). Petitioner received a second NJP on 23 November 1983 for failure to go to her appointed place of duty in violation of Article 86, UCMJ. Petitioner entered a four day period of unauthorized absence (UA) from 1 – 5 October 1984. She entered another period of UA for one day from 4 – 5 November 1984.¹ On 20 November 1984 Petitioner requested separation in lieu of trial by court-martial (SILT) and was discharged with an other than honorable characterization of service on 21 December 1984.²

c. On 2 November 1984 Petitioner was medically evaluated and assessed with “situational alcohol abuse compounded by family problems” and recommended for alcohol abuse assessment if another alcohol-related incident occurred.

d. Petitioner contends she is suffering from depression and anxiety as well as physical and mental conditions. She further states she needs the Department of Veterans Affairs (VA) to assist her. Furthermore, Petitioner also indicated that PTSD was a condition related to her request on the application.

e. As part of the Board’s review, a qualified mental health provider reviewed Petitioner’s available records and provided an AO dated 30 May 2021. The AO noted that while Petitioner asserted she suffered from mental health issues, she did not provide any evidence of symptoms, traumatic events, or a post-service clinical diagnosis to support her claim. Consequently, the AO concluded that the preponderance of objective evidence failed to establish Petitioner was

¹ The AO indicated that Petitioner was charged with UA and missing ship’s movement in violation of Articles 86 and 87, UCMJ.

² Although Petitioner’s service record is incomplete and the SILT request is not contained within the record, the Board relies on a presumption of regularity to support the official actions of public officers, and in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on approval of the SILT by the separation authority and Petitioner’s narrative reason for separation of “separation in lieu of trial by court-martial,” the Board presumed that charges, most likely UA and missing ship’s movement, were referred against Petitioner and she submitted a SILT request through counsel in order to escape trial by court-martial. Furthermore, the separation authority’s memorandum approving the SILT request states that the request was submitted on 20 November 1984 and the Staff Judge Advocate found the SILT request to be sufficient in law and fact on 10 December 1984.

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diagnosed with a mental health condition, suffered from a mental health condition at the time of her military service, or her in-service misconduct could be attributed to a mental health condition.

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 relief and that her characterization of service should be corrected to reflect general (under honorable conditions).

The Board applied liberal consideration in accordance with the references; however concurred with the AO and found insufficient evidence to determine that Petitioner suffered from a mental health condition at the time of discharge. However, in light of reference (e), the Board found Petitioner's characterization of service to be severe and an injustice. Although the Board does not condone Petitioner's misconduct and appreciates the serious nature of missing ship's movement, the Board noted that the misconduct in this case was nonviolent and consisted of two specifications of failure to go and two short-term periods of UA terminated by surrender. In particular, the Board noted that the AO indicated Petitioner was UA and missed ship's movement due to drinking after having a fight with her husband indicating the missing ship's movement violation was most likely by neglect and not design. Furthermore, the Board considered the Petitioner's youth at the time of the misconduct that appears to have initiated the administrative separation processing. Petitioner was 18 years old at the time she began active duty and 20 years old when she committed the periods of UA and missed ship's movement. Finally, the Board also considered the passage of time, 26 years, since Petitioner's discharge.

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)."

That no further action be taken.

That 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.

7/26/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]