



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

█
Docket No: 2698-21

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 PTSD," of 3 September 2014
(c) USD memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or Traumatic Brain Injury (TBI)," of 24 February 2016
(d) 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
(e) USD memo of 25 Jul 2018 "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018
(f) Advisory Opinion of 7 June 2021

Encl: (1) DD Form 149 w/attachments
(2) Case summary

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 by upgrading his discharge characterization, narrative reason for separation, separation code, and reentry code.

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 25 August 2021 and, pursuant to its regulations, determined that 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, and references (b) through (e), which include the 25 August 2017 guidance from the Under Secretary of Defense for Personnel and Readiness regarding requests by Veterans for modification of their discharge due to mental health conditions, sexual assault, or sexual harassment (Kurta Memo), the 3 September 2014 guidance from the Secretary of Defense

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regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel 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 also considered the an advisory opinion (AO) furnished by qualified mental health provider.

3. The Board, having reviewed all the facts of record pertaining to the subject former member's allegations of error and injustice, finds as follows:

a. Before applying to this Board, the Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The Petitioner enlisted in the Navy and commenced a period of active duty on 5 November 1992. On 28 May 1993, he received nonjudicial punishment for wrongfully appropriating a calling card. On 13 December 1994, he received nonjudicial punishment for leaving his place of duty. On 14 December 1994, he received nonjudicial punishment for communicating a threat. On 17 January 1995, his commanding officer recommended to the separation authority that the Petitioner be discharged with an other than honorable characterization of service, and on 8 February 1995, he was so discharged.

c. The Petitioner contends that he suffered trauma while on active duty and that caused him mental health conditions that should mitigate his misconduct. Specifically, the Petitioner states that he suffered trauma when he participated in the Haitian refugee crisis and witnessed refugees being eaten by sharks. He also describes that when he was on active duty, he sought unsuccessfully to obtain a medical discharge but was told at the time he was not a candidate for psychiatric discharge. The Petitioner further contends that, post-service, he has sought mental health treatment and he was diagnosed with major depressive disorder and PTSD. He states that after he received treatment, his life turned around and he has become a "model citizen" and has been able to succeed in employment.

d. In connection with his assertions of a mental health condition, the Board requested, and received, the reference (f) AO. The AO is considered favorable to Petitioner, and it concluded that, "[t]he available objective evidence indicated Petitioner exhibited behaviors associated with a mental health condition during his military service and some of his misconduct may be mitigated by his mental health condition."

CONCLUSION

Upon review and consideration of all the evidence of record, and in view of references (b) through (f), the Board determined that, with respect to the relief that Petitioner requested, there exists an error or injustice warranting relief. The Board concurred with the finding of the AO and determined that some of the Petitioner's misconduct on active duty may be mitigated justifying raising his discharge characterization from other than honorable to general (under honorable conditions).

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Based on a careful review of all of the facts presented, the Board concludes that Petitioner is entitled to relief as follows.

RECOMMENDATION

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

Petitioner be issued a new DD Form 214 indicating that his discharge at separation was general (under honorable conditions); Secretarial Authority narrative reason for separation, MILPERSMAN 3630900 separation authority, JFF SPD Code, and RE-1 reenlistment code.

That no further changes be made to Petitioner's record.

A copy of this report of proceedings shall 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 Regulations 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

9/15/2021

[REDACTED]

Executive Director

Signed by [REDACTED]