



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: 3039-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER █, USMC,
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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 19 August 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 to honorable.

2. The Board, consisting of █, █, █, and █ reviewed Petitioner's allegations of error and injustice on 4 October 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 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), the 24 February 2016 guidance from the Principal Deputy Under Secretary of Defense regarding discharge upgrade requests by Veterans claiming PTSD or traumatic brain injury (TBI) (Carson Memo), the 25 August 2017 guidance from the Under

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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), 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 reference (f) 19 August 2021 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 Marine Corps and commenced a period of active duty on 12 May 1967. From 22 October 1967 to 4 February 1968, the Petitioner participated in four named operations in the Republic of Vietnam. As a result of his service in Vietnam, the Petitioner the Combat Action Ribbon, Vietnam Service Medal with four stars, the Vietnam Campaign Medal, among others. On 1 July 1968, the Petitioner was convicted by a summary court-martial for unauthorized absence of 34 days and breaking restriction. On 4 November 1968, the Petitioner received nonjudicial punishment for being absent from his appointed place of duty. According to his service record, the the same day, 4 November 1968, the Petitioner received nonjudicial punishment again, for failing to obey a lawful order. On 22 January 1969, the Petitioner received nonjudicial punishment for making a false official statement after he attempted to open a pay record under a different rank. On 18 February 1969, the Petitioner received nonjudicial punishment for an unauthorized absence of two days, and on 11 September 1969, the Petitioner received nonjudicial punishment for unauthorized absence for one day and for absence from his place of duty. On 8 July 1971, the Petitioner was released from active duty with a general (under honorable conditions) characterization of service, based upon his service record.

c. The Petitioner contends that he served in Vietnam, where he was in the blast zone of a rocket attack during the Tet Offensive. He has submitted documentation that he has been treated by a Department of Veterans' Affairs Medical Center for combat-related PTSD and TBI from his Vietnam combat experiences, and his physician reported Petitioner incurred severe combat trauma and blast-related TBI (with loss of consciousness) and chronic impairments from his injuries including memory, executive functioning, visual and cognitive impairments. The Petitioner provided documentation that he has a 100% service-connected disability rating based on his wartime disability. In addition, the Petitioner submitted a detailed statement explaining that, he was authorized to be released from the Marines earlier, but he voluntarily stayed through the end of his four-year enlistment, because he wanted to increase his proficiency conduct marks so that he would not receive a general discharge.

d. In light of the Petitioner's assertion of PTSD, the Board requested the reference (f) AO. The AO is considered favorable to Petitioner, and explained that, with respect to the the VA disability decisions, they "were based on full access to his military medical and personnel records," and that the VA clinical examiners had "full access to in-service and post-discharge clinical records not currently available." The AO concluded, "[i]t is my considered medical

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opinion the preponderance of indirect evidence indicated Petitioner suffered from undiagnosed PTSD and TBI as a result of his military service, and his in-service misconduct could be attributed to his" PTSD.

CONCLUSION

Upon review and consideration of all the evidence of record, and in view of references (b) through (f), the Board determined that the Petitioner is entitled to relief in the form of issuing him an honorable characterization of service. In reaching its decision, the Board concurred with the AO's finding that the Petitioner's misconduct while on active duty could be attributed to his experience of PTSD. With respect to the Petitioner's contention that he sought to improve his proficiency and conduct scores toward the end of his service in order to rate an honorable discharge, the Board concurred with his assessment and noted that the Petitioner's performance marks were trending upward as he argued. Accordingly, in view of all of the matters presented, and as noted above, the Board concluded that the Petitioner's requested relief be granted.

RECOMMENDATION

In view of the above, the Board directs the following corrective action: Petitioner be issued a new DD Form 214 reflecting that his characterization of service at the time of his discharge was honorable.

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.

10/17/2021

[REDACTED]
Executive Director
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