



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

█  
Docket No: 3644-21

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER █, USN,  
█

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, "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) Case summary

(3) Advisory opinion of 6 October 21 w/rebuttal and response

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.

2. The Board, consisting of █, █, █, and █ reviewed Petitioner's allegations of error and injustice on 19 January 2022, 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 considered the enclosure (3) 6 October 2021 advisory opinion (AO) furnished by a qualified mental health provider, Petitioner's rebuttal to the AO, and the preparer of the AO's response to the rebuttal.

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, except with his request for the award of additional medals or awards, 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 14 July 1955. On 2 July 1957, the Petitioner received a written counseling stating he was a poor Sailor, noting his poor military bearing and performance. On 16 November 1957, the Petitioner received another written counseling stating that he was not recommended for reenlistment or advancement. On 7 December 1957, the Petitioner was convicted by a special court-martial for using provoking words and disrespect toward a petty officer. On 5 July 1959, the Petitioner received nonjudicial punishment for two periods of unauthorized absence totaling one day and eight hours. On 3 July 1959, the Petitioner was discharged at the expiration of his enlistment, transferred to the naval reserve, and issued a general characterization of service. On 13 July 1963 the Petitioner's reserve obligation expired.

c. The Petitioner contends that his discharge was tinged with racism, and that had he been discharged today he would have received an honorable discharge. He also contends that he suffered PTSD as a result of racism during his service.

d. In light of the Petitioner's assertion of PTSD, the Board requested the enclosure (3) AO. The AO is considered unfavorable to Petitioner, finding that, while the Petitioner "presented evidence of post-discharge diagnoses of PTSD and Major Depression, based on the current available evidence, it is my considered medical opinion that there is insufficient evidence to attribute his misconduct to PTSD or other mental health disorders." The Petitioner submitted a rebuttal to the AO, also included at enclosure (3), which included a statement from his former spouse, as well as excerpted medical records noting a discussion of negative experiences in the military and a statement that questionnaire measures suggested he met criteria for PTSD. The preparer of the AO responded to the Petitioner's rebuttal, also included at enclosure (3), finding that the Petitioner rebuttal did not change the original conclusion.

## CONCLUSION

Upon review and consideration of all the evidence of record, and in view of references (b) through (e), as well as enclosure (3) containing the AO and rebuttal documentation, the Board determined that the Petitioner is entitled to relief in the form of upgrading his discharge

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characterization to honorable. In reaching its decision, the Board acknowledged the unfavorable finding of the AO, but determined that a favorable finding of the AO was not necessary in reaching its decision to grant relief based on injustice. The Board carefully reviewed the Petitioner's service record and determined that his service was honest and faithful. The Petitioner's conviction by a special court-martial was based on charges of disrespect toward a petty officer and for using provoking words, for which the Petitioner was sentenced to two months of confinement at hard labor. The Petitioner's nonjudicial punishment was based on charges of a one day period, and an eight hour period, of unauthorized absence. While the entirety of the factual circumstances are no longer available, and there may have been aggravating circumstances, the Board determined that, given the passage of time, the benefit of the doubt in this instance should go to the Petitioner. In making its decision, the Board also noted that the Petitioner completed his entire obligation of active duty service from 1955 to 1959, and, after completing his active duty service, he completed his reserve obligation following his active duty period, from 1959 to 1963, without any apparent incident.

Accordingly, in view of the entirety of these specific circumstances, the Board determined that an upgrade to an honorable characterization was appropriate.

#### 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 the Petitioner be issued an honorable discharge certificate.

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.

1/26/2022

[REDACTED]  
Executive Director

Signed by: [REDACTED]