



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

██████████
Docket No: 5189-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████ ██████████
USMC, ██████████

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 3 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USD Memo of 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with enclosures
(2) Advisory Opinion of 3 Nov 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 naval record be corrected to reflect an honorable characterization of service and that his narrative reason for separation be changed to "Secretarial Authority."

2. The Board, consisting of ██████████ and ██████████ reviewed Petitioner's allegations of error and injustice on 14 January 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, the documents you submitted in rebuttal, and a subsequent AO.

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.

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b. Although enclosure (1) was not filed in a timely manner, it is in the interests of justice to review Petitioner's application on its merits.

c. Petitioner enlisted and entered a period of active duty in the Marine Corps on 14 July 2003 at the age of 18. He served as a motor vehicle operator. On 16 February 2005 Petitioner received nonjudicial punishment (NJP) for wrongful cocaine use as evidenced by the Navy Drug Laboratory on 11 February 2005. Petitioner was notified of administrative separation processing by reason of misconduct due to drug abuse as evidenced by a positive urinalysis, consulted with counsel, and waived an administrative discharge board. On 28 October 2005 Petitioner was discharged with an other than honorable characterization of service.

d. Petitioner's DD Form 214 indicates he participated in [REDACTED] and notes was awarded a Combat Action Ribbon.

e. On 21 April 2005 Petitioner was diagnosed in-service with "alcohol dependence/substance related event." Emotional or behavioral issues were noted as "possible combat stress."

f. On 28 September 2021 the Department of Veterans Affairs (VA) diagnosed Petitioner with PTSD/Major Depressive Disorder with Panic due to combat experience. The letter documenting this diagnosis further stated Petitioner "suffers from severe PTSD that was manifested as a result of combat experience while serving in the USMC during combat operations in Iraq." Petitioner's VA PTSD disability benefits questionnaire states he did not feel he would make it back alive and that poor decision making led him to alcohol and drug use while on leave to cope with his feelings.

g. Petitioner contends that upon his return from deployment to Iraq in 2004, his unit was informed they would be going back within a few months. Petitioner states he engaged in alcohol and substance abuse with most others in his company between deployments. He states he has taken responsibility, paid his debt, and served honorably for two years prior to his misconduct. In Petitioner's VA PTSD disability benefits questionnaire he states that he drove convoys, was hit with mortar fire, supported a combat outpost, dropped off snipers at night who got hit, had to help them, was exposed to IEDs, knew a Marine who was burned alive in a vehicle, and Petitioner was continually on edge.

h. In support of his application, Petitioner provided documentation to include five character references, two annual teacher evaluations, and family photographs. Additionally, his application states he is married with two sons, is a homeowner, earned a Master's degree in education, taught elementary school for three years until COVID occurred, trains martial arts, and works as a quality control sample coordinator in the pharmaceutical industry.

i. As part of the Board's review, a qualified mental health provider reviewed Petitioner's assertions and available records and provided an AO dated 3 November 2021. The AO noted that Petitioner provided new and material evidence in support of his claims. The AO further noted that post-service medical records list mental health diagnoses including PTSD and depression and note a link between the Petitioner's trauma experiences in service and the

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Petitioner's alcohol and cocaine use. Consequently, the AO concluded there is evidence to support the Petitioner's contention that he incurred PTSD and another mental health condition during military service and his misconduct may have been mitigated by PTSD or another 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 full relief and that his characterization of service should be corrected to reflect honorable. The Board, applying liberal consideration and relying on the AO, determined there was sufficient evidence to support a finding that Petitioner suffered from a mental health condition while in-service incurred due to exposure to combat environments. Although Petitioner's service record does not indicate the dates of Petitioner's deployment to Iraq, the Board found he deployed prior to the time he wrongfully used cocaine. Furthermore, the Board took particular note of the in-service diagnosis of "alcohol dependence/substance related event" and "possible combat stress" and found these diagnoses consistent with the VA diagnoses. Accordingly, the Board found that a nexus existed between the incidents experienced by Petitioner and his misconduct and that the experiences mitigated and outweighed the discharge. In addition to applying liberal consideration to Petitioner's mental health condition and the effect that it may have had upon his conduct, the Board also considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Board considered, among other factors, Petitioner's relative youth and immaturity at the time of his misconduct; the non-violent nature of the misconduct; and Petitioner's post-service conduct. Furthermore, in the interests of justice and in light of the potential for future negative implications, the Board determined Petitioner's narrative reason for separation, separation authority, and separation code should be changed to "Secretarial Authority," and that his reentry code should reflect "RE-1A."

RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 reflecting that his service was characterized as "Honorable," that the narrative reason for his separation was "Secretarial Authority," that his separation authority was "MARCORSEPMAN 6214," that his separation code was "JFF1," and that Petitioner's reentry code was "RE-1A."

That no further corrective action should 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.

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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 corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

2/3/2022

[REDACTED]

Executive Director

[REDACTED]