



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

██████████
Docket No: 5211-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████,
USN, XXX-XX-██████████

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 attachments
(2) Advisory Opinion of 21 Oct 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.

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.

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. 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.

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c. Petitioner enlisted and entered a period of active duty in the Navy on 27 January and served honorably through 6 October 1970. He reenlisted on 16 October 1972. Petitioner entered a period of unauthorized absence (UA) from 12 January 1973 to 15 January 1973 and missed ship's movement in violation of Articles 86 and 87, Uniform Code of Military Justice (UCMJ). He received no disciplinary action for these offenses. On 10 February 1973 Petitioner received nonjudicial punishment (NJP) for a three day period of UA from 3 February 1973 to 6 February 1973 in violation of Article 86, UCMJ. He was referred to a naval hospital for alcohol rehabilitation treatment on 13 February 1973 and then entered a period of UA from 20 February 1973 to 24 April 1973. On 29 May 1973 a charge was referred against Petitioner to a special court martial (SPCM). Petitioner requested an undesirable discharge for the good of the service in lieu of trial by court martial (SILT) which was approved. Petitioner was transferred to a naval hospital for alcohol rehabilitation treatment on 19 June 1973 and then entered into another period of UA from 21 June 1973 to 7 November 1973. On 5 December 1973 charges were referred against Petitioner to a SPCM. He submitted a second SILT request on 5 December 1973 which was approved. Petitioner was discharged on 20 December 1973 with an other than honorable characterization of service.

d. On 16 September 2013 Petitioner was diagnosed by the Department of Veterans Affairs (VA) with chronic PTSD following military combat.

e. As part of the Board's review, a qualified mental health provider reviewed Petitioner's available records and provided an AO dated 21 October 2021. The AO notes that Petitioner provided clinical evidence of post-discharge diagnoses of PTSD, Major Depression, Alcohol Use Disorder, and Adjustment Disorder related to his military experience, along with treatment for these conditions through the VA. The AO further states Petitioner's misconduct behaviors of UA could be attributed to avoidance behaviors frequently seen in PTSD. Consequently, the AO concluded there was sufficient indirect evidence to support Petitioner's contention of PTSD incurred as a result of combat-related events during his military service, and that his misconduct could be attributed to his experience of PTSD.

f. Petitioner contends he experienced trauma during his first enlistment, that the trauma caused his PTSD, that the PTSD went untreated, Petitioner self-medicated with alcohol, and this caused the misconduct that led to his discharge. He states he spent almost a year on and off the gun line aboard the USS [REDACTED]. He contends that during this time, grenades were thrown overboard at 0300 to remind them they were in a warzone; his ship was hit on multiple occasions which resulted in the crew burying a few comrades at sea; and the crew performed a rescue in the middle of the night and almost ran over a crew member that had fallen off another ship. He additionally states unidentified aircraft would fly overhead causing alarms to go off and a helicopter crashed into the ship's fantail. Petitioner contends he lived in a constant state of terror and readiness. He states he had difficulty coping with civilian life and out of desperation reenlisted. Petitioner states the recruiter promised him an east coast deployment so he would not have to return to Vietnam. Petitioner contends that after Captain's Mast he thought he had been discharged, was apprehended by the police, confined for 3 months, and separated with an undesirable discharge. He states he is evaluated by the VA at 70% for service connected disabilities.

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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. Furthermore, the Board found Petitioner's detailed personal statements to be credible and in conjunction with his voluminous VA medical records, found a nexus between the conditions and the misconduct. Accordingly, in the interests of justice and in light of the potential for future negative implications, the Board further determined Petitioner's narrative reason for separation, separation authority, and separation code should be changed to "Secretarial Authority" and that his reenlistment code should reflect "RE-1."

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 "Honorable," narrative reason for separation as "Secretarial Authority," separation authority as "MILPERSMAN 1910-164," separation code as "JFF," and reenlistment code as "RE-1."

That no other changes be made and 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 corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

1/28/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]