



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

█  
Docket No: 6004-21  
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 Post Traumatic Stress Disorder," of 3 September 2014 (Hagel Memo)  
(c) PDUSD Memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or 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 (Kurta Memo)  
(e) USECDEF 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 (Wilkie Memo)

Encl: (1) DD Form 149 with 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 to upgrade his characterization of service and to make other conforming changes to his DD Form 214 following his discharge for fraudulent enlistment.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 12 November 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, 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 also considered the advisory opinion (AO) furnished by qualified mental health provider.

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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, the Board determined that it was in the interests of justice to review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active service on 9 June 2000. Petitioner's pre-enlistment physical on 26 May 2000 and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. On his pre-service medical history, the Petitioner expressly denied ever having: (1) depression/excessive worry, (2) nervous trouble of any sort, (3) been treated for a mental health condition, and (4) consulted or been treated by clinics, physicians, healers, or other practitioners within the past 5 years for other than minor illnesses.

d. On 12 September 2001 Petitioner was admitted to Naval Medical Center, [REDACTED] for hallucinations and confusion that existed intermittently for years, but worsening acutely for approximately three weeks. Based on information obtained by the Medical Officer (MO) during the mental health evaluation, the MO determined that Petitioner had such symptoms at least five years prior when he was hospitalized for six weeks with suicidal ideation and was also treated unsuccessfully for depression with Zoloft. The Medical Officer (MO) diagnosed Petitioner with chronic paranoid schizophrenia (PS) noting that Petitioner had several years history of auditory hallucinations, paranoid delusions, and related symptoms for several years prior to joining the Navy.

e. On 4 October 2001 Petitioner's command initiated administrative separation proceedings by reason of defective enlistments and induction due to fraudulent entry into the naval service. Petitioner waived his rights to consult with counsel, submit statements on his own behalf, and General Courts-Martial Convening Authority review of his separation. Ultimately, on 17 October 2001 Petitioner was discharged from the Navy with a general (under honorable conditions) (GEN) characterization of service and assigned an RE-4 reentry code.

f. In short, Petitioner contended that his service was honorable and that there was no previous psychiatric diagnosis before he enlisted in the Navy. The Petitioner contended his psychotic disorder began on active duty and he submitted a December 2019 VA rating decision reflecting the granting of a service-connection for paranoid schizophrenia with a 100% rating effective 18 June 2013. The Petitioner also noted that the date of birth on his DD Form 214 was incorrect.

g. As part of the review process, the BCNR Physician Advisor, who is also a medical doctor (MD) and a Fellow of the American Psychiatric Association, reviewed Petitioner's contentions and the available records, and issued an AO on 29 October 2021. The MD initially observed that Petitioner was psychiatrically hospitalized for psychotic symptoms, diagnosed with PS and recommended for administrative separation for fraudulent enlistment for not disclosing a history of pre-service psychiatric hospitalization and psychotic symptoms. The MD concluded by

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opining that the preponderance of evidence (significantly weighted towards the VA findings) supported Petitioner's contention that his in-service PS diagnosis had its onset during service.

## CONCLUSION

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants only partial relief. Additionally, the Board reviewed his application under the guidance provided in the Hagel, Kurta, and Wilkie Memos. Specifically, the Board considered whether his application was the type that was intended to be covered by these policies.

In accordance with the Kurta, Hagel, and Wilkie Memos, the Board gave liberal and special consideration to Petitioner's record of service, and his contentions about any traumatic or stressful events he experienced and their possible adverse impact on Petitioner's service. However, the Board concluded, contrary to the AO, that Petitioner was appropriately discharged for fraudulent enlistment due to having disqualifying mental health issues upon entry into the Navy that he failed to disclose. The Board noted that a fraudulent enlistment occurs when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect a Sailor's eligibility for enlistment. The Board concluded that Petitioner willfully failed to disclose his disqualifying pre-service mental health issues as part of his pre-enlistment medical documentation and application. The Board determined that Petitioner had a legal, moral, and ethical obligation to remain truthful on his enlistment paperwork. Had Petitioner properly and fully disclosed his pre-service mental health conditions, treatment, medication, and hospitalization, he would have absolutely been disqualified from enlisting. The Board determined the record clearly reflected that Petitioner's lack of disclosure about his mental health history was willful and demonstrated he was unfit for further service.

The Board was not willing to upgrade the Petitioner's discharge characterization. The Board determined that significant negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record. The Board also noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. Moreover, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating VA benefits, or enhancing educational or employment opportunities. The Board noted that VA eligibility determinations for health care, disability compensation, and other VA-administered benefits are for internal VA purposes only. Such VA eligibility determinations, disability ratings, and/or discharge classifications are not binding on the Department of the Navy and have no bearing on previous active duty service discharge characterizations. The Board carefully considered any matters submitted regarding Petitioner's post-service conduct and accomplishments, however, even in light of the Wilkie Memo and

reviewing the record holistically, the Board still concluded that given the totality of the circumstances Petitioner's upgrade request does not merit relief. Accordingly, the Board determined that there was no impropriety or inequity in Petitioner's discharge, and even under the liberal consideration standard, the Board concluded that Petitioner's GEN characterization,

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narrative reason for separation, separation code, and reentry code were proper and in compliance with all Navy directives and policy at the time of his discharge.

Lastly, the Board determined based on its review of the entire record, that Petitioner's date of birth as reflected on his DD Form 214 was incorrect and thus warranted a change to reflect the correct date.

#### RECOMMENDATION

In view of the foregoing, the Board finds the existence of a material error warranting the following corrective action.

That Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215), to indicate that his date of birth in Block 5 is changed to "710511."

Following the correction to the DD Form 214 indicating the correct date of birth, that all other information currently listed on such DD Form 214 remain the same.

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.
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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

11/30/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]