



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

█
Docket No: 7086-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, █,
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) 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) PDUSD 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) 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

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 reflect an upgraded characterization of service.

2. The Board consisting of █ reviewed Petitioner's allegations of error and injustice on 23 March 2022 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 references (b) through (e). Additionally, the Board also considered two advisory opinions (AO) furnished by a qualified mental health professional and Petitioner's rebuttal response to the AO.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

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a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

b. Petitioner enlisted in the Navy and began a period of active duty on 10 September 1970. On 1 April 1971, Petitioner received non-judicial punishment (NJP) for absence from his appointed place of duty. On 6 October 1971, Petitioner was evaluated and diagnosed with somnambulism and dissociative reaction. Because of his diagnosed medical condition, he was recommended for administrative separation. On 21 October 1971, Petitioner received his second NJP for an unauthorized absence, totaling 10 days.

c. On the same day of Petitioner's second NJP, he was notified that he was being recommended for administrative discharge from the Navy by reason of unsuitability. Petitioner was advised of his procedural right to submit a written statement on his behalf and exercised his right.

d. On 22 October 1971, Petitioner's commanding officer (CO) then forwarded his administrative separation package to the separation authority (SA) recommending Petitioner's administrative separation from the Navy.

e. The SA approved the CO's recommendation for administrative separation and directed Petitioner's administrative separation from the Navy with a characterization of service type warranted by his service record by reason of unsuitability. On 11 November 1971, Petitioner was discharged from the Navy with a General (under honorable conditions) characterization of service.

f. Petitioner contends that during his time in service he was subjected to conditions which caused PTSD, as well as other conditions resulting in his diagnosis of 100% permanent and total disability due to his military service. Petitioner further states that he was also subjected to the detonation of three separate nuclear devices; at the time of the detonations, he was outside of the ship while the rest of the crew was inside. He was placed with cameras and told to take photos of the detonations at specific intervals. Because of the detonation and continued harassment by members of the crew, he developed multiple mental health conditions.

h. On 31 January 2022, Petitioner's application and records were reviewed by a qualified mental health professional, who provided the Board with an advisory opinion (AO) for the Board's consideration. The AO noted that in service, Petitioner was diagnosed with sleepwalking, indicating that military service was not suitable to him. Additionally, Petitioner was also diagnosed with dissociative fugue reaction, but there is no indication in the record or his statement that this state was precipitated by a traumatic event. Post-service, the Department of Veterans Affairs (VA) has awarded Petitioner with 100% disability for unspecified diagnoses. Unfortunately, Petitioner's personal statement was insufficiently detailed to establish a nexus with his misconduct. The AO concluded that additional information was required to render an alternate opinion, and stated that there is insufficient evidence that Petitioner may have incurred

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PTSD during military service, and there is insufficient evidence that his misconduct could be attributed to PTSD.

i. On 2 March 2022, in response to Petitioner's submission of new supporting documentation, the mental health professional reviewed Petitioner's request again and provided the Board with an additional AO. The AO noted that the provided Department of Veterans Affairs (VA) records support a diagnosis of PTSD and other mental health conditions and also support Petitioner's claim of a stressor of radiation exposure fear. Additionally, the AO stated it is possible that Petitioner's dissociative reaction, observed during military service, is associated with his unauthorized absence in September 1971 and could be related to his purported trauma earlier that summer. Petitioner's first unauthorized absence occurred prior to the summer and could not be attributed to symptoms of PTSD. The AO concluded by opining that based on the preponderance of the evidence, there is post-service evidence that Petitioner may have incurred PTSD during military service and there is evidence that some of his misconduct could be attributed to symptoms of unrecognized PTSD.

CONCLUSION:

The purpose of the Secretary of Defense memorandum is to ease the process for Veterans seeking redress and assist the Boards in reaching fair and consistent results in "these difficult cases." The memorandum describes the difficulty Veterans face on "upgrading their discharges based on claims of previously unrecognized" mental health conditions. The memorandum further explains that, since mental health conditions were not previously recognized as a diagnosis at the time of service for many Veterans, and diagnoses were often not made until after service was completed, Veterans were constrained in their arguments that mental health conditions should be considered in mitigation for misconduct committed or were unable to establish a nexus between a mental health condition and the misconduct underlying their discharge.

The Board, upon review of the both AO's, specifically, the AO of 2 March 2022, applying liberal consideration, and noting Petitioner's supporting documentation, determined there was sufficient evidence to support a finding that Petitioner suffered from a mental health condition. Accordingly, the Board concluded some form of relief was merited under references (b) through (e). After weighing the totality of the evidence, the Board concluded that Petitioner's characterization of service shall be changed to "Honorable." Additionally, in the interest of justice and in light of the potential for future negative implications, the Board determined Petitioner's narrative reason for separation, separation code, and separation authority should be changed to "secretarial authority." However, the Board determined Petitioner's reenlistment code should remain unchanged based on his record of misconduct and unsuitability for naval service.

RECOMMENDATION:

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

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That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 11 November 1971, Petitioner's characterization of service was "Honorable," narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 1910-164."

No further action be granted.

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 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.

4/1/2022

[REDACTED]
Executive Director
[REDACTED]