



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

█  
Docket No: 7150-21

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 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 w/ enclosures  
(2) Advisory Opinion of 9 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 discharge be upgraded to Honorable and the narrative reason for separation be changed to “Physical or Mental condition” with corresponding changes to the separation authority and separation code, a reentry code change to either “RE-1” or “RE-3G,” correction to his rating to “HM” to reflect his designation as a hospital corpsman, and correction of his pay grade to read “E4” Enclosures (1) and (2) apply.

2. The Board, consisting of █, █, and, █ reviewed Petitioner's allegations of error and injustice on 21 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, applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board also considered the advisory opinion (AO) furnished by 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. Petitioner enlisted in the Navy and began a period of active duty on 27 May 2008. While serving an extended unaccompanied tour in █, Petitioner experienced mental health

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stress as a result of the premature birth of his child requiring neonatal intensive care and the dissolution of his marriage with his state-side spouse.

c. Petitioner sought medical care from December of 2008 through February of 2009 for symptoms of anxiety, insomnia, and fluctuating periods of mania and hypomania. During this period, he was diagnosed in-service as experiencing a general anxiety disorder with obsessive-compulsive traits and features of hypomania. His medical records indicate he attempted treatment with several medications, but expressed concerns for side-effects he was experiencing. He coordinated with his mental health provider to transition off medication and begin behavioral therapy in an effort to permit weapons qualifications necessary for his rating as a master-at-arms; however, his records indicate a need for further evaluation to rule out bipolar disorder.

d. On 16 September 2009, Petitioner began efforts to cross-rate as a hospital corpsman and executed a transfer to Naval Hospital Corps School [REDACTED] on 31 May 2010 for training in the new rating.

e. Petitioner's records contain a pre-separation counseling checklist dated 7 September 2010. This record indicates that he was being involuntarily separated and specifies that the reason his counseling was conducted 89 days or less before his separation date was because of "legal separation." Although Petitioner was subject to nonjudicial punishment (NJP) on 14 October 2010 for violations of Article 91, insubordinate conduct toward a second class petty officer, and Article 134, indecent language, his record of NJP specifies that the date of his offense was 5 October 2010.

f. Petitioner's NJP punishment of reduction in grade from E4 to E3 was suspended for a period of 3 months; however, he was discharged on 5 November 2010 in the grade of E3.

g. Petitioner contends that his discharge certificate contains an erroneous reduction in grade and that his rating should reflect hospital corpsman rather than master-at-arms. He also contends that he was supposed to continue receiving mental health care and behavioral therapy after his transfer to [REDACTED]. His medical records from [REDACTED] support this contention. Petitioner submitted evidence to substantiate that, within a year of his discharge, he was involuntarily hospitalized via a clinical certification to a county court after being found mentally ill and a threat to himself or others. The examination included diagnoses of major depressive disorder and post-traumatic stress disorder and found that he was unable to understand his need for treatment.

h. In support of his contention of the mitigating nature of the untreated mental health condition that contributed to his separation and other than honorable characterization of service, Petitioner has submitted character letters from his mother, father, and spouse. These letters relate changes in Petitioner's mental health during his tour in [REDACTED], which became evident upon his return to the United States. They relate clemency evidence of the extraordinary efforts he has made to manage his mental health condition and remain employed to support his wife through obtaining her degree to become a licensed educator. His wife states that he cares exceptionally well for their sons, one of whom suffers from a congenital birth defect. Petitioner's family attests that he has served as a corrections officer for the past 7 years with the

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Florida Department of Corrections and that he will spend hours on the phone or traveling in person to assist other mentally ill veterans in crisis.

i. Because Petitioner contends he suffered a mental health condition during military service, the Board requested a medical advisory opinion (AO) from a qualified mental health provider. The AO relied on evidence from Petitioner's in-service mental health diagnosis and treatment records as well as Petitioner's post-service mental health diagnosis. The AO identified that Petitioner had coordinated with his health care provider to discontinue medication and that, unfortunately, it is common for an individual with a mental health diagnosis to continue to exhibit symptoms while participating in treatment, with a likelihood of relapse. The AO noted that Petitioner's documented misconduct is characteristic of the irritability and overreaction often related to symptoms of anxiety as documented in his medical record. As a result, the AO opined that there is sufficient evidence Petitioner exhibited behaviors associated with a mental health condition during his military service which may mitigate his misconduct.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that the Petitioner's request warrants favorable action in the form of partial relief. The Board reviewed his application under the guidance provided in references (b) through (e) intended to be covered by this policy.

In this regard, the Board notes Petitioner's misconduct and does not condone it; however, the Board observed that Petitioner served without misconduct prior to and during his mental health treatment. The Board concurred with the AO that Petitioner's minimally documented misconduct appears closely related to the symptoms of his mental health condition which was diagnosed and treated in [REDACTED]. As a result, the Board found sufficient evidence to support Petitioner's contention that his mental health condition mitigated his misconduct and supported an upgrade to his discharge characterization.

Additionally, although the Board determined that there was insufficient evidence to support an error in Petitioner's final rating as a master-at-arms, the Board found that the reduction in grade recorded in Petitioner's discharge certificate is unsupported by the evidence his service records, which reflect no documented misconduct other than a single NJP for which the sole punishment of his reduction in grade to E3 was suspended.

Despite the above findings, the Board concluded the preponderance of the evidence does not support changing Petitioner's narrative reason for separation to "Physical or Mental condition" or his reentry code to RE-1 or RE-3G. The Board determined that while Petitioner's record documents his mental health issues, sufficient evidence exists to show he committed the offenses that formed the basis for his administrative separation for misconduct. Therefore, the Board concluded Petitioner was ineligible for administrative separation processing due to his mental health issues and properly processed for misconduct. However, based on the findings of the AO, the Board concluded it was in the interest of justice to change his narrative reason for separation to "Secretarial Authority" in order to adequately address the mitigation offered by Petitioner's mental health issues while on active duty.

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In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 5 November 2010, while serving in the grade, rate or rank of "MA3" and pay grade of "E4," his "Honorable" discharge was issued under separation authority "MILPERSMAN 1910-120" with a narrative reason for separation of "Secretarial Authority" and separation code "JFF."

That no further changes be made to Petitioner's record.

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.

2/8/2022

[REDACTED]

Executive Director

[REDACTED]