



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

█
Docket No: 7256-21

Ref: Signature Date

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

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

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 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

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion of 28 Jan 22

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 her husband's naval record be corrected by upgrading his characterization of service from other than honorable to honorable.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 14 February 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 Subject Named Member's (SNM) 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,

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injustice, or clemency determinations (Wilkie Memo). 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. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

c. SNM enlisted in the U.S. Marine Corps and began a period of active duty on 2 October 1967.

d. From 12 April 1968 through 19 April 1969, SNM completed 14 operations in Vietnam as a Scout Sniper.

e. On 11 April 1969, SNM received his first nonjudicial punishment (NJP) for being absent from his appointed place of duty and disobeying a lawful written order.

f. On 11 December 1969, SNM received a second NJP for again being absent from his appointed place of duty.

g. On 22 December 1969, SNM's command received a letter documenting SNM cashed a worthless check in the amount of \$25.00.

h. On 20 January 1970, SNM received a notification of deficiencies letter in his frequent involvement of a discreditable nature with military authorities has become a matter of concern to his command and the Marine Corps. SNM was advised that other adverse conduct or performance may lead to discharge processing.

i. On 21 January 1970, SNM received a letter of deficiency for frequent involvement with military authorities.

j. On 23 March 1970, SNM's Unit Punishment Book entry captures four (4) specifications of unauthorized absence (UA) and a recommendation to the Battalion Commander to forward his case to a special court-martial (SPCM).

k. On 6 April 1970, SNM was notified of pending administrative separation processing due to frequent involvement with military authorities and failure to pay just debts, at which time he waived all of his procedural rights. Further, on 7 April 1970, he was notified of his commanding officer's intent to recommend to the discharge authority that he be separated with an other than honorable (OTH) characterization of service. On 22 April 1970, SNM was discharged from the U.S. Marine Corps with an OTH.

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l. In her application, Petitioner provides contentions gleaned from her deceased husband and her father-in-law; specifically: (1) her husband served honorably in Vietnam and wanted to make a career of the military, (2) while in Vietnam, her husband was exposed to Agent Orange, (3) not long after SNM's return from Vietnam, he reported to his command and eventually married a woman who was a constant problem for him, (4) SNM had continuous financial hardships as a result of his ex-wife's spending, (5) SNM's misconduct followed a combat deployment to Vietnam, (6) when given the option to choose his then wife or the Corps, SNM chose his wife and regretted his decision to leave the Corps, (7) SNM was harassed by a first lieutenant and commanding officer at his new command, and (8) SNM had multiple personalities after returning from Vietnam.

m. Petitioner provides she and SNM were married for over 20 years and SNM was unaware that he received an OTH until he sought Department of Veterans Administration benefits for his cancer.

n. As part of the review process, a qualified mental health provider reviewed Petitioner's assertions and available records, and issued a favorable AO (enclosure 2). The AO concluded there is some in-service behavioral evidence that SNM's may have incurred PTSD during military service and some of SNM's misconduct could be attributed to PTSD.

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 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 noted SNM's misconduct, and does not condone his actions. However, based upon SNM's overall record, to include high performance marks in conduct, in light of enclosure (2), and given our current understanding of mental health conditions, relief in the form of changing his characterization of service to "honorable" should be granted. Additionally, the separation authority, separation code, and narrative reason for discharge should be changed.

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

RECOMMENDATION:

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating his characterization of service as "honorable", narrative reason for separation to read "Secretarial Authority", separation authority to read "MARCORSEPMAN 6421," and separation code to read "JFF."

That Manpower Management Military Awards (MMA), complete a thorough audit of Petitioner's service records and correct any errors in SNM's service.

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That no further action be granted.

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.

3/3/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]