



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

██████████
Docket No: 7273-21
0388-15

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 9 Feb 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 a general (under honorable conditions) characterization of service and narrative reason of Secretarial Authority.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 11 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 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, documents submitted in rebuttal, and a subsequent AO. See enclosure (2).

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.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, XXX-XX [REDACTED]

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.

c. Petitioner enlisted and entered a period of active duty in the Navy on 15 July 1991.

d. Petitioner served on the USS [REDACTED] from 14 February 1992 to 13 October 1992.

e. On 15 May 1992, Petitioner received nonjudicial punishment (NJP) for wrongful possession of an identification card and for being drunk and disorderly in violation of Articles 92 and 134, Uniform Code of Military Justice (UCMJ).

f. On 1 October 1992, Petitioner was diagnosed by a clinical psychiatrist as alcohol dependent.

g. On 30 October 1992, Petitioner was terminated from alcohol rehabilitation treatment due to screening positive for THC.

h. Petitioner received a second NJP, on 20 November 1992, for wrongful use of marijuana in violation of Article 112a, UCMJ.

i. On 22 November 1992, Petitioner was notified of administrative separation processing by reason of misconduct due to drug abuse. Petitioner did not consult with counsel and waived his procedural right to request an administrative discharge board.

j. On 17 December 1992, Petitioner elected to accept treatment at a Department of Veterans Affairs (VA) hospital for rehabilitation due to alcohol and/or drug dependency prior to discharge.

k. Petitioner was discharged on 6 February 1993 with an other than honorable characterization of service.

l. As part of the Board's review, a qualified mental health provider reviewed Petitioner's available records and provided an AO dated 9 February 2022. The AO noted that the Petitioner's personal statement provided support for anxiety and potentially PTSD conditions that may have exacerbated pre-service behaviors. Consequently, the AO concluded there was some post-service evidence that the Petitioner may have incurred PTSD during military service and that his misconduct could have been mitigated by PTSD symptoms.

m. Petitioner contends that his service during Operation [REDACTED]/Desert [REDACTED] caused him to develop PTSD. He states he self-medicated with alcohol and became dependent. He contends that while intoxicated, and because the alcohol was not alleviating his mental health symptoms, he used marijuana. He states the marijuana did provide some relief and he continued to use it until he tested positive on a urinalysis screening. He states post-discharge, his mental health problems remained and after years of abuse, he was able to complete multiple rehabilitation programs.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, XXX-XX-[REDACTED]

n. In support of his application, Petitioner provided six character references on his behalf, rehabilitation treatment documentation, and community college transcripts and letter of good standing.

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 relief and that his characterization of service should be corrected to reflect general (under honorable conditions).

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 determined that a nexus existed between the condition and the misconduct.

In addition to applying liberal consideration to Petitioner's mental health condition and the effect that it may have had upon his conduct, the Board also considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Board considered, among other factors, Petitioner's commendable post-service record of accomplishments to include his many volunteer activities and academic pursuits; the non-violent nature of Petitioner's misconduct; that Petitioner has sought and received treatment to rehabilitate himself; and the passage of time since Petitioner's discharge. Based upon this review, the Board determined that the interests of justice warrant upgrading Petitioner's characterization of service to general (under honorable conditions) under the totality of the circumstances. 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."

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 "General (Under Honorable Conditions)," narrative reason for separation as "Secretarial Authority," separation authority as "MILPERSMAN 1910-164," and separation code as "JFF." Petitioner's reentry code shall remain the same.

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.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, XXX-XX-[REDACTED]

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.

3/28/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]