



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

██████████
Docket No: 7838-21

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER ██████████ ██████████ USN,
██████████

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 18 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 his discharge be upgraded to “Honorable,” the narrative reason for separation be changed to “Secretarial Authority,” and his first name be corrected to properly read ██████████ vice ██████████” Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████ and ██████████ reviewed Petitioner's allegations of error and injustice on 4 March 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 and began a period of active duty on 23 May 2001. His enlistment records clearly indicate a first name of ██████████ with no ██████████

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c. Petitioner's evaluation report of 15 July 2002 identifies his entitlement to the National Defense Service Medal. His evaluation report of 15 June 2003 identifies his entitlement to the Armed Forces Expeditionary Medal, Global War on Terrorism Medal, and Sea Service Ribbon.

d. Petitioner served nearly 3 years without incident until 3 March 2004, when he was subject to nonjudicial punishment (NJP) for violation of Article 92, failure to obey an order or regulation and was counseled on retention with separation warnings. The next day, he transferred from the ██████████ to Service School Command (SSC) for training; however, he failed to report by 7 March 2004 as required by his orders.

e. Petitioner remained absent without authority until finally reporting on 10 July 2004. On 30 July 2004, he received a second NJP for violation of Article 86, unauthorized absence (UA), and was notified of processing for administrative separation due to commission of a serious offense and pattern of misconduct. He waived his right to consult counsel and to request an administrative hearing. The recommendation for an other than honorable characterization was forwarded on 6 August 2004 and approved on 10 August 2004 for the basis of pattern of misconduct.

f. Petitioner was discharged on 2 September 2004 with a final trait average of 3.08. His Certificate of Release or Discharge from Active Duty (DD Form 214) lists block 1, Name, as ██████████ and block 13, Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized identifies only the sea service deployment ribbon and a letter of appreciation.

g. In addition to the name error on his DD Form 214, Petitioner apologizes for his actions. He contends that he was suffering from an ongoing physical injury at the time of his misconduct but that his request for light duty was denied. He experienced increasing stress and states that he requested behavior health counseling to learn coping skills, which was also not provided, although he realizes that he should have sought further assistance rather than absenting himself. He acknowledges that he made the unfortunate decision to "take matters into his own hands" and remain at his hometown with his family during his UA, but believes that his discharge was unduly harsh.

h. In his current petition, he attributes his absence to needing a support system while recovering from his injury; however, his previous petition to the Board in 2014 indicated that he remained absent because he needed to take care of his family and was fearful of not being in their presence. His initial request to the Naval Discharge Review Board specified only a desire to obtain veteran benefits.

i. Petitioner submitted documentation of his post-service medical records and post-service diagnoses of post-traumatic stress disorder (PTSD) (self-reported), schizophrenia (self-reported), and a service-connected unspecified depressive disorder from the Veteran's Administration (VA). His supporting documents identify his PTSD stressors as "seeing explosions, shootings, death, and seeing people and vehicles blown up" during "combat" in ██████████ and his depressive disorder as attributed to unduly harsh treatment from his command and peers.

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j. Because Petitioner contends that in-service mental health conditions mitigate his misconduct, the Board requested a medical advisory opinion (AO) from a qualified mental health provider. The AO observed that Petitioner has expressed several different reasons underlying his misconduct. As a result, the considered clinical opinion of the AO is that the preponderance of available, objective evidence failed to establish that Petitioner suffered from a mental health condition at the time of his military service or that his misconduct could be attributed to such condition.

k. Petitioner provided a response to the AO stating that Petitioner currently suffers from PTSD, depression, GERD, sleep apnea, and back issues related to his active duty service. He reiterates that his military misconduct was attributable to his mental health condition at the time and he suffered an injustice when assigned his other than honorable characterization of service. He asserts the Navy failed to identify and treat his mental health condition leading to the misconduct that formed the basis for his unfavorable discharge. Petitioner's rebuttal evidence was reviewed by the qualified mental health provider but it resulted in no change to the AO.

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 with respect to the name and award errors in his DD Form 214. However, following a review of Petitioner's application under the guidance provided in references (b) through (e), the Board concurred with the AO and, in light of Petitioner's inconsistent rationale for going UA, found the evidence insufficient to establish a nexus between his contended mental health condition and misconduct. As such, the Board assessed that the mitigating factors submitted for consideration did not outweigh the severity of Petitioner's misconduct evidenced by his two NJPs and determined that further relief in the form of a change to Petitioner's character of discharge is not warranted.

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

RECOMMENDATION:

That Petitioner receive an audit of his entitlement to awards.

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating the first name of ██████████ in block 1, Name.

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.

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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.

3/23/2022

[REDACTED]
Executive Director
[REDACTED]