



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

█
Docket No: 0184-22

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF █
█ USMC

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 3 Feb 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. Enclosures (1) and (2) apply.

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 30 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 enclosure (2), 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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

b. Petitioner enlisted and began a period of active duty on 13 February 2012. From 29 April 2013 through 21 October 2013, he deployed in support of combat operations with █ Battalion, █ Marines. In November of 2013, Petitioner attempted suicide by taking excessive amounts of pills in conjunction with alcohol.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED] USMC

c. In January of 2014, Petitioner's urinalysis test reported a positive result for oxymorphone. He was screened for post-traumatic stress disorder (PTSD) on 13 February 2014, with negative results from a review of his post-deployment health assessment records.

d. Petitioner was tried before Summary Court-Martial, on 21 February 2014, for a violation of Article 112a, for wrongful use of a controlled substance while aboard Marine Corps Base [REDACTED] and, on 26 March 2014, notified of administrative separation for misconduct due to drug abuse. He waived his right to a hearing before an administrative board or to submit a statement. Following legal review and approval of his administrative separation by the Commanding General, [REDACTED] Marine Division, Petitioner was discharged on 18 June 2014 with an other than honorable characterization of service.

e. Petitioner contends that his discharge was unjust because he served honorably throughout his military service, to include his combat tour in [REDACTED], but that he suffered from PTSD as a result. He presents record of a determination by the Department of Veteran's Affairs (VA) that his service has been deemed honorable for VA purposes. In support of his contentions, he also submitted VA medical records of his hospitalization and treatment for chronic PTSD due to military combat and for Major Depressive Disorder with recurrent episodes.

f. Because Petitioner contends a mental health condition, the Board requested enclosure (2). The AO reviewed evidence of Petitioner's service records and extensive post-service VA records, noting that Petitioner's post-service VA records of care include a discharge summary from the Psychiatry Acute Recovery Care Unit which documents his PTSD diagnosis, psychiatric hospitalizations, and individual and group therapy. The AO observed Petitioner's description of the timing of his symptoms as immediately following his deployment to [REDACTED] as well as the likelihood that he minimized his symptoms during his military service. As a result, the AO opined that there is post-service evidence Petitioner may have incurred PTSD and another unfitting mental health condition during his military service and that his misconduct may be attributable to a mental health condition.

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 equitable 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 in wrongfully using a controlled substance and does not condone it; however, the Board observed that Petitioner's records indicate honorable service without misconduct prior to and during his combat deployment. The Board concurred with the AO that there is sufficient post-service evidence to establish that Petitioner incurred PTSD as a result of military combat. As a result, the Board found that his incident of in-service drug use is attributable to his PTSD and, therefore, outweighs his misconduct sufficiently to mitigate his discharge. In making this determination, the Board concluded that a General (under Honorable conditions) characterization of service sufficiently

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED] USMC

addresses any equity issues in Petitioner's case and concluded an Honorable characterization was not appropriate in light of the seriousness of his drug related misconduct. Accordingly, the Board determined that Petitioner's request for upgraded characterization of service merits relief as well as correction to the narrative reason for separation and reentry code to remove reference to misconduct due to drug abuse.

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 18 June 2014, his "General (Under Honorable Conditions)" discharge was issued under separation authority "MARCORSEPMAN par 6214" with a narrative reason for separation of "Secretarial Authority," separation code of "JFF1," and reentry code of "RE-4."

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.

4/11/2022

[REDACTED]
Executive Director
[REDACTED]