



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

██████████  
Docket No: 710-22  
Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████,  
██████████ 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) USD Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments  
(2) DD Form 214, Certificate of Release or Discharge from Active Duty of 29 Jan 89  
(3) DD Form 214, Certificate of Release of Discharge from Active Duty of 1 Feb 94  
(4) NAVPERS 1070/613 Civil Conviction of 25 Nov 91  
(5) NAVPERS 1070/613 Counseling of 2 Dec 91  
(6) CO, ██████████ 5350 Code 034.1/1395 ltr of 28 Feb 92  
(7) CO, U.S. Naval Forces, ██████████ 5350 Ser 04/3402 ltr of 18 Feb 92  
(8) Incident Complaint Report 02Oct93-46187-418-7TI  
(9) P601-7R Record of CO's NJP of 9 Nov 93  
(10) CO, U.S. Naval Magazine, ██████████ 5800 Ser 00B/042 ltr of 18 Jan 1994  
(11) NAVPERS 1070/613 CO's NJP of 25 Jan 94  
(12) Medical 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 characterization of service be upgraded to "Honorable."
2. The Board reviewed Petitioner's allegations of error and injustice on 18 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 the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) – (e).
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error or 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.

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[REDACTED], USN

b. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review Petitioner's application on its merits.

c. Petitioner's personal appearance, with or without counsel, would not materially add to their understanding of the issues involved.

d. Petitioner enlisted in the Navy and began a period of active duty on 28 July 1986, receiving an honorable discharge for immediate reenlistment on 29 January 1989. He was awarded his first Good Conduct Medal on 27 July 1990. See Enclosures (2) and (3).

e. Petitioner's spouse died due to congestive heart failure on 17 May 1991. Petitioner was convicted on 25 November 1991 of the civil offenses of driving under the influence and failure to wear a seat belt. On 2 December 1991, he received administrative counseling after being diagnosed alcohol dependent and recommended for level III alcohol rehabilitation treatment, which he completed in February of 1992. See Enclosures (1), (4), (5), and (6).

f. The Counseling and Assistance Center recommended that Petitioner receive level I counseling and attend command monitored "alcoholics anonymous" meetings after he was sent to an alcohol evaluation on 17 February 1993 for reporting to work an hour late with the smell of alcohol on his breath. Petitioner agreed to comply. However, on 2 October 1993, Petitioner was detained by military police for an incident of driving under the influence after failing to signal and rolling through a stop sign, asserting he had taken cough/sleep medicine earlier in the evening. As a result, Petitioner was subject to nonjudicial punishment (NJP) for violation of Article 111, drunk driving; he was reduced to MT3/E-4, placed on restriction and extra-duties for 45 days, and awarded forfeitures of pay. See Enclosures (7), (8), and (9).

g. As a result of Petitioner's repeated alcohol-related misconduct after completing level III treatment, he was processed for administrative separation due to alcohol rehabilitation failure and commission of a serious offense. In his 18 January 1994 recommendation for Petitioner's administrative separation, Commanding Officer, U.S. Naval Magazine, [REDACTED] "strongly<sup>1</sup> endorse[d] separation of service member with a General characterization of service," noting that his "behavior began to deteriorate following exceptional marital problems" and that he had been unsuccessful at dealing with the situation. Petitioner waived his administrative separation board and was separated with an other than honorable discharge on 1 February 1994. See Enclosures (3), (10), and (11).

h. Petitioner contends that he suffered from a mental health condition during his military service which resulted in his alcohol abuse and alcohol-related misconduct. He states that he reported to work one day to discover that his wife had passed away due to congestive heart

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<sup>1</sup> Several notable matters occurred during administrative separation processing: (1) Petitioner was initially notified of separation via notification procedures with the recommendation for a General (Under Honorable Conditions) (GEN) characterization of service, which was forwarded on 24 November 1993; however, Personnel Command directed that he be notified via board procedures; (2) Petitioner received a second NJP for a violation of Article 92, failure to obey an unspecified lawful order, for an offense which occurred on 30 December 1993, but for which his Commanding Officer did not conduct NJP until *after* forwarding his formal recommendation; and (3) Enclosure (10) not only maintains the "strong" recommendation for a GEN discharge notwithstanding the 30 December 1993 offense but also appears to expressly omit reference to that misconduct.

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failure which caused a severe traffic accident; his treatment records indicate self-reports that his 8-month old son was also in the vehicle. He describes that his command was sympathetic with him on the issues he encountered while grieving, which included an arrest for driving while intoxicated. After transferring to a new command, he remarried; however, he asserts that his marriage failed because he was still grieving his deceased spouse. The failure of his marriage coupled with his grief sent him spiraling out of control. He admits that he lost discipline and his work performance suffered. He reports that he was arrested again for driving under the influence; although the civil charges were dropped, his claims that his command processed him separation due to misconduct as a result of his drinking. See Enclosure (1).

i. Petitioner has submitted records of his medical treatment from the Department of Veteran's Affairs (VA) in support of his contentions. In addition to his treatment and diagnostic history, Petitioner's VA records document multiple periods of homelessness, inability to maintain employment, and an extensive history of criminal arrests. See Enclosure (1).

j. Because Petitioner contends experiencing a mental health condition during his military service, his application and records were reviewed by a qualified mental health professional, who provided an advisory opinion (AO) for the Board's consideration. The AO observed evidence that Petitioner's wife and, reportedly, his 8 month old son died under traumatic circumstances during his active duty service and that Petitioner had post-service self-reported experience being present when a shipmate was "blown up." The AO noted a VA medical note which states "the probability is greater than 50% that his posttraumatic stress was incurred or aggravated during active service" and opined it is possible "Petitioner minimized symptoms of PTSD during military service" and his alcohol-related misconduct, which follows his wife's death, represented an attempt at self-medication. The AO also identified Petitioner's extensive list of post-service VA diagnoses, which include chronic PTSD following military combat, severe bipolar II disorder, and bipolar-type schizoaffective disorder, with an extensive history of mental health hospitalizations, medication, and treatment spanning a period from September of 1996 through October of 2020. Based on available evidence, the AO's medical opinion is that post-service evidence supports that Petitioner may have incurred PTSD or another unfitting mental health condition during his military service and his alcohol-related misconduct may be attributed to such condition. See Enclosures (1) and (12).

#### MAJORITY CONCLUSION

After careful review and consideration of all of the evidence of record, the Majority of the Board determined that partial relief is warranted in the form of upgrading Petitioner's characterization of service from "Other than Honorable Conditions" (OTH) to "General (Under Honorable Conditions)" with corresponding changes to his narrative reason for separation, separation authority, and separation code; however, the Majority determined that Petitioner's reentry code should remain "RE-4."

Because Petitioner based his claim for relief upon a mental health condition, his application was reviewed in accordance with the guidance of references (b) through (e). Accordingly, the Majority applied liberal consideration to Petitioner's contention. In this regard, the Majority concurred with the opinion of the AO that Petitioner may have minimized his experience of post-

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traumatic stress and appears to have attempted to self-medicate his symptoms, resulting in alcohol-related misconduct attributable to his experience of either PTSD or another unfitting mental health condition. The Majority observed that Petitioner's alcohol-related civil conviction occurred after his wife's death, that the command response of administrative counseling and required level III rehabilitation treatment indicates an awareness of mitigating circumstances surrounding Petitioner's misconduct, and that action on his second incident of alcohol-related misconduct and apparent relapse / alcohol-rehabilitation failure further notes Petitioner's exceptional marital difficulties. However, the Majority concurred with the Minority in opinion that Petitioner's misconduct of driving while intoxicated was a serious offense in the risk it presented to other people. As are result, the Majority supported a grant of partial relief only with respect to upgrading Petitioner's discharge, further, although the Majority agreed that a change to his narrative reason for separation was warranted, they determined that his reentry code should remain "RE-4" in light of the severity of his post-service mental health diagnoses.

#### MAJORITY RECOMMENDATION

In view of the above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record:

That Petitioner be issued a new DD Form 214 reflecting that his service was characterized as "General (Under Honorable Conditions)" for the narrative reason of "Secretarial Authority" with a separation authority of "MILPERSMAN 3630900" a separation code of "JFF."

That no further corrective action should be taken.

That a copy of this report of proceedings be filed in Petitioner's naval record.

#### MINORITY CONCLUSION

The Minority of the Board found that Petitioner's request did not warrant relief. Specifically, although the Minority concurred with the Majority regarding the AO to the extent that there is evidence Petitioner suffered exhibited symptoms of a mental health condition during his military service, the Minority found that the mitigating factor of Petitioner's mental health condition and resulting alcohol use disorder did not outweigh the severity of Petitioner's alcohol-related misconduct specifically in light of the potential risk to life inherent in the offense of driving while intoxicated. Further, the Minority noted the fact that Petitioner committed the offense of driving while intoxicated a second time during his military service in spite of having been given a second chance. As a result, the Minority determined that Petitioner's request should be denied.

#### MINORITY RECOMMENDATION

In view of the above, the Minority of the Board recommends that Petitioner's request be denied 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 titled matter.

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5. The foregoing action of the Board is submitted for your review and action.

3/21/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Minority Recommendation (Deny Relief)

**Reviewed and Approved Majority Recommendation (Partial Relief)**

Reviewed and Approved Petitioner's Request (Grant Full Relief)

3/25/2022

[REDACTED]

Assistant General Counsel (M&RA)

[REDACTED]