



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

█
Docket No: 0903-22

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 “Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD”
(c) PDUSD Memo of 24 Feb 16 “Consideration of Discharge Upgrade requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or Traumatic Brain Injury (TBI)”
(d) USD Memo of 25 Aug 17 “Clarifying Guidance to Military Discharge Review 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” (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 “Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determination”

Encl: (1) DD Form 149 with enclosures
(2) Case summary

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 narrative reason for separation be deleted or changed and his reentry code upgraded.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 9 May 2022, and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, and applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD)(Hagel 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 also considered the advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to Petitioner. Although Petitioner was afforded an opportunity to

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submit a rebuttal, Petitioner did not do so.

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, the statute of limitation was waived in accordance with the Kurta Memo.

c. Petitioner enlisted in the U.S. Navy and began a period of active duty on 7 August 1974. After being referred to medical due to a fear of heights, Petitioner was given a psychiatric examination. Subsequently, an Aptitude Board determined Petitioner's general qualifications did not warrant retention in the service. Specifically, the Aptitude Board report stated "[w]hile not grossly mentally deficient, he does manifest inadaptability, ineptness, poor judgment, social instability and the lack of physical and emotional stamina. He made a sincere effort to succeed here; however, his basic lack of aptitude has hampered him from mastering the rudiments of training. His inability to succeed in the protective environment of recruit training is highly indicative of sub-standard performance in the service. It is recommended that he be discharged as unsuitable for further training."

d. Unfortunately, the documents related to Petitioner's administrative separation are not in his OMPF. In this regard, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary (as is the case at present), will presume that they have properly discharged their official duties. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) reveals he was separated from the Navy on 17 September 1974 with an Honorable (HON) characterization of service. His Record of Discharge documents his narrative reason for separation is "Military Unsuitability," and his reenlistment code as "RE-4" (Ineligible for reenlistment).

e. Petitioner requests his narrative reason for discharge be changed or deleted and his reenlistment code be upgraded. He contends he is dealing with PTSD, TBI, and other Mental Health Conditions (MHC). He further contends these diagnoses might have mitigated the substandard performance or inability to adapt to military service that led to his discharge. Regarding Petitioner's PTSD contention, he states his reported PTSD arose from childhood sexual molestation and his experience in the Navy contributed to his pre-existing PTSD, but he did not specify any mental health/behavioral symptoms he experienced because of his Navy experience indicative of PTSD. Petitioner stated he incurred TBI in 1970, prior to his enlistment, when he was hit by a car while riding a bicycle which resulted in emergency surgery for a skull fracture and major concussion. Petitioner further states, "Whether the TBI caused PTSD and/or the grand mal seizure that I suffered from on November 9, 2009, I do not know." Additional contentions included: (1) he was told he could reenlist after six months if he no longer had a fear of heights, (2) he was never advised or told that he was unsuitable for military service, (3) his character and behavior were no different and in no way reflected the person he was at 17 or that

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he is today, and (4) by including this as a separation for his honorable discharge, this country, which he has always loved and respected, is doing a tremendous disservice and is defamatory. However, Petitioner did not provide any supporting pre-enlistment, in-service, or post-service discharge clinical evidence for review to support his contentions.

f. In connection with Petitioner's assertion that he suffered from PTSD, the Board requested, and reviewed, the AO. The AO reviewed his service record as well as his petition and the matters submitted. According to the AO:

Petitioner's in-service records reveal an enlistment physical examination in which the Petitioner described himself in "good health" and did not endorse any history of mental health or substance abuse symptoms or conditions. He also denied any history of head injury, loss of memory or amnesia, periods of unconsciousness, hospitalizations, or "nervous trouble of any sort." A psychiatric evaluation assessed him as having exhibited a lack of progress in his recruit training, his performance in training as poor, and that he had a long history of "inadequacy. Though he was not assessed as suffering from a diagnosable psychiatric condition, he was recommended for discharge as unsuitable for further training. Petitioner's service records did not reveal any history of head trauma or residual symptoms of head trauma that would indicate TBI."

The AO concluded, "based on the available evidence, it is my considered medical opinion there was insufficient objective evidence of psychological/behavioral markers to support Petitioner's contention of TBI, PTSD, or other Mental Health Condition exhibited during his military service, nor that his substandard performance and inability to adapt to military service could be attributed to TBI, PTSD, or other Mental Health Condition.

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 concluded, that the Petitioner's request warrants favorable action in the form of partial relief. Specifically, in the interests of justice and in light of the potential for future negative implications, the Board determined Petitioner's narrative reason for separation, separation authority, and separation code should be changed.

In regard to the Petitioner's request to change his reentry code, the Board determined relief is not warranted based on evidence he did not meet the general requirements for retention in the Navy. In making this finding, the Board relied on the Aptitude Board findings of 12 September 1974.

RECOMMENDATION:

In view of the above, the Board directs the following corrective action:

Petitioner be issued a new DD Form 214 and new discharge certificate indicating the narrative

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reason for separation as "Secretarial authority," and the separation authority as "MILPERSMAN 1910-164" and separation code as "JFF."

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.

6/4/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]