



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

[REDACTED]
Docket No: 1007-22

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]
[REDACTED] 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 23 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 narrative reason for separation be changed from "Personality Disorder" to "Medical." Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 25 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 16 June 1999 with no prior history of mental health symptoms, treatment, or diagnosis. In November of 1999, he was setback during training for academic difficulties. He was setback again, in January of 2000, for

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administrative reasons. He was informally counselled on 2 March 2000 for not doing assigned homework.

c. On 3 April 2000, Petitioner was administratively dropped from training due to the volume of his scheduled appointments and referred for a psychiatric evaluation. Prior to receiving his psychiatric evaluation, Petitioner was counselled on 13 April 2000 for an unauthorized absence (UA); from his administrative separation records, it appears that he had two incidents of UA that same day although only one is documented in the counseling entry.

d. On 1 May 2000, Petitioner was diagnosed with adjustment disorder (AD) and personality disorder (PD). He received formal counseling for deficiencies and his diagnosis of PD in which he was informed that his PD did not constitute grounds for discharge and was advised of recommendations for corrective action, with warnings regarding administrative separation if he failed to take corrective action.

e. Petitioner was admitted to the hospital, on 10 May 2000, for a possible overdose. The next day, a letter from the mental health department recommended his administrative separation for either AD or PD, advised that neither condition constituted a physical disability, and opined that both conditions interfered with adequate military service. Although not specified in the initial recommendation, the medical officer concurred via a follow-up phone call that Petitioner posed a significant risk of harm to himself if he was not expeditiously separated. Upon notification of administrative separation for the basis of his personality disorder, Petitioner waived his right to consult with counsel or submit a statement on his behalf.

f. Following expeditious approval of his discharge by Commanding General, Marine Corps [REDACTED], Petitioner's 27 June 2000 separation physical noted psychiatric abnormalities and in-service medical history of headaches, trouble sleeping, depression or excessive worry, loss of memory, nervous trouble, and suicide attempt or plan. He also endorsed swollen or painful joints; however, he was found fit to separate notwithstanding any in-service physical injuries or mental health concerns. Petitioner was discharged on 13 July 2000 with final proficiency and conduct marks of 4.1/4.1.

g. Petitioner contends that his in-service PD diagnosis was erroneous and his discharge for a non-specific PD was unjust because he did not have any pre-existing mental health disorders. He asserts that he suffered a mental health condition caused by his military service and should have received a medical discharge. In support of his contentions, Petitioner submits documentation of his Department of Veterans Affairs (VA) diagnoses of major depressive disorder (MDD), generalized anxiety disorder secondary to MDD, and somatic symptom disorder secondary to service-connected injuries. He also provides a copy of his VA Disability Benefits Questionnaire (DBQ) which thoroughly analyzes his mental health history and opines that Petitioner "was the victim of 'military mistakes' rendering a diagnosis of PD" because Axis I syndromes override Axis II disorders absent sufficient evidence to show that the PD is so pervasive that it obviates the need for an Axis I diagnosis.

h. Because Petitioner contends a mental health condition, the Board requested a medical advisory opinion (AO) from a qualified mental health provider. The AO reviewed evidence of

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Petitioner's service records, available in-service medical records, and extensive post-service VA records. The AO noted that Petitioner has had no post-service diagnosis of PD after over 20 years of mental health care from the VA and that his post-service VA diagnoses include depression and anxiety disorder secondary to service-connected injuries. The AO explained that acute psychological crises may present as seemingly characterological pathology in a military environment and that symptoms might be overly interpreted as a PD rather than an immediate, acute reaction to military stressors; as a result, the AO assessed that Petitioner's PD diagnosis may have been made in error as he experienced the onset of depression and anxiety. As a result, the AO opined that there is evidence Petitioner exhibited behaviors of a mental health condition during his military service which may mitigate his in-service behaviors and that his PD may have been diagnosed in error.

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 regard to the expressly requested relief that his narrative reason for separation be changed to a "Medical" or disability discharge, the Board found Petitioner's contentions unpersuasive. Foremost, because eligibility for compensation and pension disability ratings by the VA requires merely the establishment of service connection and is manifestation-based without any required demonstration of unfitness, the Board noted that the VA rating determination of Petitioner's service-connected disability conditions is not conclusive as to whether any of those conditions were unfitting at the time of his discharge from the Navy. On the factual question of Petitioner's fitness for duty during his military service, the Board first observed that Petitioner noted his mental health symptoms during his separation physical but was found fit for separation. Additionally, the Board considered the fact that Petitioner's post-service diagnoses of mental health conditions were secondary to a VA rated, service-connected physical injury, for which he was also found fit for separation. Accordingly, the Board found insufficient evidence to establish that Petitioner suffered a medical disability which might have rendered him unfit at the time of his separation and determined that there is insufficient evidence of error or injustice to warrant the requested change of narrative reason for separation to "Medical" or disability.

With respect to its grant of relief pertaining to Petitioner's narrative reason for separation of "Personality Disorder," the Board first reiterates that it does not condone Petitioner's misconduct in failing to complete assigned academic homework and UAs. However, even without regard to the considerations addressed below, the Board acknowledged that a narrative reason for separation of "Personality Disorder" expressly references Petitioner's protected health information and merits relief in the interest of privacy. Additionally, the Board concurred with the AO in finding sufficient evidence to conclude that Petitioner exhibited behaviors of a mental health condition during his military service. Further, the Board concurred with the AO's analysis that the in-service diagnosis of PD might have resulted from mistaking that condition with the onset of MDD and anxiety. The Board observed that those behaviors appear to have impacted Petitioner's performance and conduct, ultimately resulting in his administrative discharge –

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albeit under the narrative reason of PD rather than misconduct. As a result, the Board determined that Petitioner's narrative reason for separation merits relief on the grounds of both privacy and error and, although not expressly requested, that his mental health condition mitigates the performance and conduct which resulted in his General (Under Honorable Conditions) characterization of service. Therefore, the Board concluded additional relief in the form of an upgraded characterization of service to fully "Honorable" and a change to his narrative reason for separation to "Secretarial Authority" is warranted.

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 13 July 2000, his "Honorable" discharge was issued under separation authority "MARCORSEPMAN par. 6214" with a narrative reason for separation of "Secretarial Authority," separation code "JFF1," and reentry code "RE-1A."

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.

4/25/2022

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Executive Director

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