



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

██████████
Docket No: 2836-22
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER ██████████
██████████ USMC

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 TBI”
(d) PDUSD 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”

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion dated 30 June 2022

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Marine Corps filed enclosure (1) with this Board requesting that his General (Under Honorable Conditions) characterization of service be changed in light of current guidelines as reflected in references (b) and (d). He also implicitly requested that his Narrative Reason for Separation be changed from “Personality Disorder” to “Secretarial Authority”, “RE-4” reenlistment code be changed to “RE-1”, Separation Code (SPD) “JFK1” be changed to “JFF1,” and the separation authority “MILPERSMAN par 6203.3” be changed. Enclosures (2) through (4) apply.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner’s allegations of error and injustice on 17 August 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, and applicable statutes, regulations, and policies, to include the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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

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(Wilkie Memo). Additionally, The Board also considered enclosure (4), the advisory opinion (AO) dated 30 June 2022. Even though he was provided an opportunity to respond to the AO, Petitioner chose not to 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 Marine Corps on 14 November 1989. On 18 September 1991, he received non-judicial punishment (NJP) for unauthorized absence (UA) totaling 21 days. On 7 February 1992, Petitioner was diagnosed with an avoidant personality disorder. Subsequently, he was notified of pending administrative separation action by reason of a personality disorder. After waiving his rights, his commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge by reason of a personality disorder, with a General (Under Honorable Conditions) characterization of service. The SA approved the recommendation and, on 15 April 1992, he was so discharged.

d. In his application, Petitioner asserts that he deserves a discharge upgrade and the aforementioned changes to his DD Form 214 since he served his country with honor. He also contends that he did not receive any help for his personality disorder from the Marine Corps and suffered from PTSD, sexual assault, TBI, and other mental health conditions as a result of his military service.

e. Based on Petitioner's mental health claims, the Board considered enclosure (4). The AO states in pertinent part:

During military service, the Petitioner was diagnosed with personality disorder. This diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose to the mental health clinician, and the psychological evaluation performed by the mental health clinician over two sessions. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service. Unfortunately, he has provided no medical evidence in support of PTSD or another mental health condition. His in-service misconduct appears to be consistent with his diagnosed personality disorder. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, "[b]ased on the available evidence, it is my considered clinical opinion there is insufficient evidence of diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence his misconduct could be attributed to PTSD or another mental health condition, other than his diagnosed personality disorder."

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CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief.

In keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, the Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior and/or adjustment disorder. Describing Petitioner's service in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictate a change. Accordingly, the Board concluded that Petitioner's discharge should not be labeled as being for a mental health-related condition and that certain remedial administrative changes are warranted to the DD Form 214.

Notwithstanding the recommended corrective action below, the Board concluded that Petitioner's characterization of service and reentry code should remain unchanged. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. However, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In making this finding, the Board considered the seriousness of Petitioner's misconduct and concurred with the AO that insufficient evidence exists that his misconduct could be attributed to PTSD or another mental health condition, other than his diagnosed personality disorder. Further, the Board considered that Petitioner provided no evidence to support his contentions. As a result, the Board concluded significant negative aspects of Petitioner's service outweighed the positive aspects and continue to warrant a General (Under Honorable Conditions) characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading Petitioner's characterization of service, changing his reentry code, or granting clemency on those issues.

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) that shows that on 15 April 1992, his narrative reason for separation was "Secretarial Plenary Authority", separation code was "JFF1", and his separation authority was "MARCORSEPMAN 6214". That no further changes be made to the record.

That no further changes be made to the record.

That 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

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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.

8/24/2022

[REDACTED]

Executive Director

[REDACTED]