



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

[REDACTED]  
Docket No: 3126-22

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],  
USN: [REDACTED]

Ref: (a) 10 U.S.C. §1552  
(b) SECDEF memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD," of 3 September 2014  
(c) USD memo, "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)," of 24 February 2016  
(d) USD memo, "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," of 25 August 2017 (Kurta Memo)  
(e) USD memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018  
(f) BUPERSINST 1900.8 dtd 28 Jun 1993

Encl: (1) DD Form 149 w/attachments  
(2) Case summary  
(3) Advisory opinion of 30 June 2022

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 naval record be corrected by upgrading his discharge characterization to Honorable, reinstatement of his rank and NEC, and removal of any derogatory information to include an NJP.

2. The Board, consisting of [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 7 September 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, and references (b) through (e). Additionally, the Board considered the enclosure (3), the 30 June 2022 advisory opinion (AO) furnished by a qualified mental health

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provider. Although Petitioner was provided an opportunity to submit a rebuttal to the AO, he chose not to do so.

3. The Board, having reviewed all the facts of record pertaining to the subject former member's allegations of error and injustice, finds as follows:

a. Before applying to this Board, the 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. The Petitioner enlisted in the Navy and began a period of active service on 16 March 1987. On 4 May 1988, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA). On the same day, he was counseled regarding his misconduct and notified further deficiencies may result in the initiation of administrative separation. On 2 July 1993, Petitioner reenlisted for a period of 6 years. Petitioner received NJP in August 1997 for two specifications of insubordinate conduct, and making a false official statement. On 16 December 1997, Petitioner was discharge with a General (Under Honorable Conditions) character of service by reason of misconduct. He was issued a SPD code of GKQ and a reentry code of RE-4. Petitioner's final trait average was 2.17.

c. Petitioner's record contains an administrative error. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) does not include his period of Honorable service from 16 March 1987 to the end of his first enlistment on 1 July 1993. Per reference (f), Box 18 should indicate Petitioner's periods of Honorable service.

d. In light of the Petitioner's assertion of PTSD, the Board requested the enclosure (3) AO. The AO is considered unfavorable to Petitioner, explaining that:

There is no evidence that Petitioner was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. 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, "it is my considered clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence of a 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."

e. Petitioner claimed that he was experiencing personal stress regarding family health concerns, pending relocation, and harassment from a superior following a car accident. He

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contended these stressors contributed to mental health concerns that resulted in separation from service. For purposes of clemency consideration, Petitioner provided supporting documentation describing post-service accomplishments but no advocacy letters.

## CONCLUSION

Upon review and consideration of all the evidence of record, and in view of reference (f), the Board determined that the Petitioner is entitled to partial relief. Specifically, the Board noted Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) contains an administrative error and warrants correction. Petitioner's DD Form 214 does not indicate his period of honorable service from 16 March 1987 to his reenlistment on 2 July 1993.

Notwithstanding the recommended correction below, upon review and consideration of all the evidence of record, and in view of references (b) through (e), as well as the enclosure (3) AO, the Board concluded Petitioner's request to upgrade his character of service should be denied. 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. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and his overall trait average of 2.17. Further, the Board noted Petitioner failed to provide evidence to substantiate his contentions. Finally, the Board reviewed Petitioner's evidence in support of his application to be considered for clemency consideration. However, the Board concluded his General (Under Honorable Conditions) character of service was appropriate based on the severity of his misconduct. After weighing his record, the Board determined that significant negative aspects of his service outweighed the positive aspects and continue to warrant a General (Under Honorable Conditions) characterization. Despite his post-discharge accomplishments, after applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading Petitioner's characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances, the Board determined that Petitioner's request for an discharge upgrade does not merit relief.

## RECOMMENDATION

In view of the above, the Board directs the following corrective action: Petitioner be issued a Correction to Certificate of Release or Discharge from Active Duty (DD Form 215), per reference (b) to add indication of Petitioner's continuous Honorable service from 16 March 1987 to 1 July 1993.

That no further changes be made to Petitioner's record.

A copy of this report of proceedings shall 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.

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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 Regulations 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

9/27/2022

[REDACTED]

Executive Director

[REDACTED]