



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

█
Docket No: 3940-22

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
█ 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 (AO) of 6 Jul 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 discharge under honorable conditions be upgraded to "Honorable." Enclosures (1) and (2) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 26 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, applicable statutes, regulations, and policies, to include the references.

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 in the Marine Corps and began a period of active duty, on 3 May 2006, with a waiver of physical standards for a medical history of a bleeding disorder or seizure disorder. On 13 March 2007, he was admitted to Naval Hospital for suicidal ideations relating to stress and depression; he described feeling "boxed in" and feeling that military lifestyle was not

“for him.” A clinical psychological evaluation identified instability in social, emotional, and occupational functioning with lower than average intellectual functioning and a high risk of becoming overwhelmed compared to persons of normal intellectual ability. The clinician determined that Petitioner’s symptoms and behavior were a long-term pattern that existed prior to enlistment, posed a high risk of self-destructive behavior, would continue to cause problems even as a civilian, and were of such severity as to significantly impair his ability to function effectively in the military. Petitioner was diagnosed as having a severe Personality Disorder (PD) with chronic suicidality and, on 4 April 2007, medically recommended for expeditious administrative separation.

c. Petitioner’s supervisory chain of command provided statements regarding his recommendation for separation, unanimously concurring with separation being in the best interest of the service due to Petitioner’s difficulty in dealing with the routine stress of military lifestyle and unanimously assessing proficiency and conduct (pro/con) marks on par with an “Honorable” discharge. Petitioner’s platoon commander recommended an “Honorable” discharge, noting that he was able to perform duties in a satisfactory manner and stating that pro/con marks of 4.4/4.4 would be an accurate reflection of his service because he was “respectful at all times as well as a hard worker when given a task.” Likewise, Petitioner’s staff noncommissioned officer-in-charge recommended an “Honorable” discharge, explaining that, although Petitioner would get frustrated easily due to low stress tolerance, he “does what he is told” and his current average pro/con marks of 4.3/4.3 accurately reflected his service. Finally, his immediate platoon sergeant, although suggesting an “other than honorable” discharge, observed that Petitioner performed his duties satisfactorily with strengths of “discipline and willingness to conform ... constant positive attitude & tries very hard to do the right thing” except that he was unable to adjust to Marine Corps lifestyle. The platoon sergeant likewise recommended pro/con marks of 4.2/4.3.

d. Upon his notification of separation proceedings by reason of PD, Petitioner did not submit a statement. His recommendation for separation was immediately forwarded that same day on 17 April 2007, with the stated rationale for recommending a “General (Under Honorable Conditions)” character of discharge being his “inability to perform and conduct himself as a Marine.” Neither the recommendation nor Petitioner’s service records document any in-service misconduct. Petitioner’s separation was approved by the Commander, [REDACTED] Marine Logistics Group, and he was discharged for the reason of “Personality Disorder” on 7 May 2007 with a characterization of “General (Under Honorable Conditions).”

e. Petitioner contends that he became ill during boot camp which resulted in hazing from his drill instructor, that his drill instructor was punished which resulted in additional hazing from other drill instructors, and that the hazing continued at his first duty station by Marines who were friends of his former drill instructors. He states that he reached a breaking point, contemplated suicide, and called his mother, at which point he states that he was hospitalized and treated for depression. He claims to have ongoing PTSD, mental health, and physical manifestations (stomach ulcers) as a result of his experience and needs veteran benefits due to difficulty obtaining employment because of these conditions. He believes the treatment he experienced during his service merits an “Honorable” discharge.

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f. In support of his contentions, Petitioner provided the administrative separation recommendation forms from his chain of command regarding their observations of his in-service character as well as medical and dental records, and a copy of his original request to NDRB.

g. Petitioner recently applied to the Naval Discharge Review Board (NDRB) with substantially similar contentions; however, his request was denied on 18 March 2022 due to timeliness because his date of discharge exceeded 15 years.

h. Because Petitioner contended a mental health condition affected the circumstances of his discharge and characterization, enclosure (2) was requested and made available for the Board's consideration; however, the Board determined that the unfavorable AO was not relevant to the Board's conclusion.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants favorable action in the form of relief. The Board reviewed the application under the guidance provided in references (b) through (e) intended to be covered by this policy.

In this regard, the Board noted Petitioner's lack of documented misconduct or substandard performance with the sole basis for his discharge stemming from a diagnosis of PD; moreover, the Board considered that Petitioner's PD was tied to a medical observation of low intellectual capacity that directly affected his ability to effectively adapt to the stress of a civilian, much less military, environment. In spite of that difficulty, Petitioner's immediate supervisory chain of command overwhelmingly concurred that his in-service performance met the proficiency and conduct requirements established for an "Honorable" discharge and provided clearly positive descriptions of his time in service. The Board found no evidence of record to support the issuance of less than an "Honorable" discharge under applicable policies. Specifically, the Board observed that his platoon sergeant's recommendation of an "other than honorable" discharge, as well as his commanding officer's rationale in recommending a General (Under Honorable Conditions) being tied to Petitioner's PD, reflected the common misperception that a mental health diagnosis as the reason for discharge necessitates a less than fully honorable characterization by default. The Board concurred with the recommendations of Petitioner's immediate chain of command and found that anything less than a fully honorable discharge was inequitable. Additionally, although not specifically requested by Petitioner, the Board found that the documentation of his narrative reason for separation being tied to a mental health diagnosis reveals protected health information which merits correction in the interest of privacy and to prevent potential prejudice. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief as well as additional relief regarding Petitioner's narrative reason for separation.

Notwithstanding the recommended corrective action below, the Board concluded Petitioner's reentry code remains appropriate in light of his PD and unsuitability for further military service.

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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, for the period ending 7 May 2007, that his "Honorable" discharge was issued for the narrative reason of "Secretarial Authority" under the separation authority of "MARCORSEPMAN para. 6214" with a separation code of "JFF1."

That Petitioner be issued an "Honorable" discharge certificate.

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.

9/9/2022

