



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

█  
Docket No: 4186-22

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) USD Memo of 25 Aug 17 (Kurta Memo)  
(c) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with enclosures  
(2) Case summary  
(3) Mental Health Advisory Opinion of 12 August 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 General (Under Honorable Conditions) (GEN) characterization of service be upgraded to Honorable (HON).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 12 December 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, and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with enclosure (3), an advisory opinion (AO). Although you were provided an opportunity to respond to the AO, you 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.

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c. Petitioner enlisted in the U.S. Navy and began a period of active duty on 9 February 2000. On 14 February 2002, Petitioner received nonjudicial punishment (NJP) for assault and was subsequently issued administrative remarks documenting the aforementioned deficiency, retaining him in the naval service and advising him that further deficiencies in his performance and/or conduct will make him eligible for administrative separation action.

d. Even though Petitioner's administrative separation documents were not in his record, his Certificate of Release or Discharge from Active Duty (DD Form 214), reveals he was separated from the Navy on 19 December 2002 with a GEN characterization of service. His Record of Discharge documents his narrative reason for separation is "Personality Disorder," and his reenlistment code as "RE-4." Petitioner's cumulative trait average was below a 3.0 at the time of his discharge.

e. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for relief. On 30 September 2010, the NDRB denied his request after determining his discharge was proper as issued.

f. Petitioner contends he was discharged as a result of an undiagnosed mental health condition that was out of his control. He further asserts his discharge characterization prevented him from taking advantage of the GI Bill and states, post-discharge he has completed treatment, lives a normal life, is an active member of his church, has maintained a full time job, raised a family, and believes he should have the same benefits as any other veteran. Petitioner did not provide any supporting pre-enlistment, in-service, or post-service discharge clinical evidence for review to support his contentions.

g. In connection with Petitioner's assertion that he suffered from an undiagnosed mental health condition, the Board requested, and reviewed, enclosure (3). The AO reviewed his service record as well as his petition and the matters submitted. According to the AO:

Although the available records are limited, during military service, the Petitioner was diagnosed with a personality disorder. This diagnosis was based on observed behaviors and performance during his period of service, the information that he chose to disclose, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service, by definition, and indicates lifelong characterological traits unsuitable for military service, and is neither incurred in nor aggravated by military service. Unfortunately, he has provided no medical evidence to support his claims of another mental health condition. His personal statement and available records are lacking sufficient detail to establish 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.

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The AO concluded, "it is my considered clinical opinion 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 a mental health condition.

#### 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 partial relief.

In keeping with the letter and spirit of the 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 corrective action recommended below, the Board determined Petitioner's characterization of service remains appropriate. 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 Kurta and Wilkie Memos. These included, but were not limited to, his desire for a discharge upgrade in order to qualify for veterans' benefits. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board noted that Petitioner's overall trait average of 2.71 qualified him for a GEN characterization of service based on his discharge type warranted by his service record. Based on the circumstances of his case, including the AO which determined there was insufficient evidence his misconduct could be attributed to a mental health condition, the Board found no error or injustice in his assigned characterization. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Therefore, while the Board considered Petitioner's assertions of post-discharge good character, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading his characterization of service or granting an upgraded characterization of service as a matter of clemency or equity.

For similar reasons, the Board found that Petitioner's reentry code also remains appropriate. Despite Petitioner's assertions of good character and recovery, the Board determined his conduct and diagnosed personality disorder makes him unsuitable for further military service. In making this finding, the Board substantially concurred with the AO.

#### RECOMMENDATION:

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

Petitioner be issued a new DD Form 214 indicating the narrative reason for separation as

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“Secretarial Authority,” the separation code as “JFF”, and the separation authority as  
“MILPERSMAN 1910-164.”

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.

1/9/2023

