



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

[REDACTED]
Docket No: 4598-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED]
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552
(b) 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

Encl: (1) DD Form 149 w/attachments

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 to change by upgrading his General (Under Honorable Conditions) (GEN) characterization of service to Honorable discharge, as well as being awarded a disability retirement.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 29 August 2022 and, pursuant to its regulations, determined that 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 naval records, and applicable statutes, regulations and policies, and reference (b), the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

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. On 14 August 2017, the Petitioner enlisted in the Marine Corps and commenced a period of active duty. On 10 April 2019, the Petitioner was evaluated by a mental health provider and diagnosed with Adjustment Disorder with Depressed Mood and recommended for administrative separation. On 2 May 2019, the Petitioner was advised of the initiation of administrative separation processing and his rights in connection therewith. His commanding officer recommended that he be discharged with a GEN characterization of service. On 20 June 2019, the Petitioner was discharged with a GEN characterization of service based on a condition, not a disability. During his period of service, the Petitioner's proficiency and conduct marks were each 4.3. He had no apparent record of misconduct in his record.

c. In his petition to this Board, Petitioner requests that his discharge characterization be upgraded to Honorable and that he received a disability retirement based on bipolar disorder. In support of his request, the Petitioner included a finding from the U.S. Department of Veterans' Affairs (VA), awarding him a service connected disability rating for bipolar disorder, effective 21 June 2019.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial relief. Specifically, the Board determined that there exists an injustice in the Petitioner's naval records in the form of his GEN characterization of service. In reaching its decision, the Board reviewed the guidance set forth in reference (b), but determined that the Petitioner's performance marks were at the level such that an Honorable discharge was appropriate. Further, the Board did not find any evidence of misconduct or discipline in the Petitioner's record, thus, an Honorable characterization of service was appropriate at the time of his discharge, and the GEN characterization of service he received was unjust.

Despite the Board's recommendation to grant partial relief as a matter of injustice, the Board concluded the preponderance of the evidence does not support any other relief requested by the Petitioner, including providing him a disability retirement or referral to a medical or physical evaluation board. Specifically, the Board found no evidence of unfitness based on a covered disability during the Petitioner's period of active service. The Board observed that the Petitioner was not referred by medical professionals to a medical board for evaluation for any disability condition. In addition, the Board observed the Petitioner's actual reason for separation was his adjustment disorder, a condition not considered a disability. The fact the VA rated the Petitioner for a service connected disability condition of bipolar disorder did not persuade the Board the condition was unfitting at the time of his discharge from the Marine Corps since eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated.

RECOMMENDATION

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

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that at the time of his discharge his characterization of service was "Honorable."

No other changes are required.

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.

9/19/2022

[REDACTED]

Executive Director
[REDACTED]