



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

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Docket No: 4623-22

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, █

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 Post Traumatic Stress Disorder," of 3 September 2014 (Hagel Memo)
(c) PDUSD Memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or 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) USECDEF 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 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments
(2) Case Summary

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 his reenlistment code on his DD Form 214 following his uncharacterized entry level separation (ELS) for a condition, not amounting to a disability while in initial recruit training ("boot camp").

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 28 October 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 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency

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determinations (Wilkie Memo). Additionally, the Board also considered an advisory opinion (AO) furnished by a qualified mental health provider. Although the Petitioner was afforded an opportunity to submit an AO rebuttal, he 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. Petitioner enlisted in the Navy and began a period of active service on 14 July 2020. While in boot camp, on 31 July 2020 Petitioner was evaluated at the Recruit Evaluation Unit at Recruit Training Command [REDACTED]. A Navy Medical Officer (NMO) diagnosed Petitioner with an adjustment disorder with mixed anxiety and depressed mood. The NMO determined that Petitioner had a medical condition incompatible with military service, but that such condition did not amount to a physical disability. The NMO recommended Petitioner's administrative separation after determining that Petitioner's condition was sufficiently severe to significantly impair his ability to effectively function in the military environment. The NMO determined that Petitioner's condition was not considered amenable to effective treatment in a military setting.

c. On 10 August 2020, Petitioner's command initiated entry level (ELS) administrative separation proceedings by reason of a medical condition not amounting to a disability. Petitioner waived his rights to consult with counsel and to General Court-Martial Convening Authority review of the separation. Ultimately, on 18 August 2020, after only thirty-six (36) days on active duty, Petitioner was discharged from the Navy with an ELS for a condition, not a disability and assigned an RE-4 reentry code.

d. In short, Petitioner stated that during boot camp he could not handle the pressure of everything happening around him that was compounded by the recent deaths of his fiancée and a close friend. Petitioner contended that over the last two years he has been able to clear his mind and that he owed it to himself to become that Sailor he always wanted to be.

e. As part of the review process, the BCNR Physician Advisor, who is a licensed clinical psychologist (Ph.D.), reviewed Petitioner's contentions and the available records and issued an AO on 23 August 2022. The Ph.D. stated in pertinent part:

During military service, the Petitioner was properly evaluated and diagnosed with an adjustment disorder. There is no evidence that his in-service diagnosis was in error. Although it does appear that he was experiencing significant personal stresses at the start of his military training, the military stressors differ from those of civilian life. An adjustment disorder diagnosis indicates that the Petitioner's difficulties would likely resolve after separation from service. Unfortunately, there is no evidence of post-service treatment or alternative coping strategies that would indicate a return to service would result in a different outcome.

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The Ph.D. concluded, “it is my considered clinical opinion there is evidence of a mental health condition that was identified during military service, and which contributed to the circumstances surrounding his separation and re-enlistment code. There is insufficient evidence of an error in diagnosis.”

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner’s request warrants relief.

The Board initially determined that Petitioner’s ELS was proper and in accordance with all Department of the Navy directives and policy at the time of his discharge. The Board was not willing to modify/upgrade the Petitioner’s discharge characterization. The Board noted that Navy discharge policy provides that separations initiated within the first 180 days of continuous active duty will be described as ELS except when an Honorable discharge is approved by the Secretary of the Navy in cases involving unusual circumstances not applicable in Petitioner’s case. The Board noted that Petitioner’s separation processing commenced on day twenty-eight of his active duty service.

However, in keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, the Board determined that Petitioner’s assigned reentry/reenlistment code was unduly harsh given the overall circumstances and created an unnecessary negative inference. The Board noted that the “RE-4” reentry code is assigned in Navy when the service member is ineligible for reenlistment. The Board concluded contrary to the AO after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency, that the more appropriate and equitable reentry code in Petitioner’s case should have been “RE-3G.” The Board noted that in the Navy the “RE-3G” reentry code is a waivable code and directly corresponds to “condition (not a disability),” and was the proper reentry code for adjustment disorder cases such as Petitioner’s. The Board believed that the Petitioner should be given an opportunity to demonstrate that he is currently without any disqualifying medical or mental health issues and is otherwise fit to pursue a Navy career should he choose to do so. The Board determined that recruiting personnel will be responsible for determining whether Petitioner currently meets the standards for reenlistment and whether or not his reenlistment is feasible given his previous medical history and military service. Accordingly, the Board granted the requested relief as requested by Petitioner, namely to change his reentry code. The Board concluded that the revised reentry code was the correct code based on Petitioner’s circumstances and was proper and in compliance with all Navy directives and policy at the time of his discharge.

Notwithstanding the recommended corrective action below, the Board was not willing to modify the Petitioner’s separation code or narrative reason for separation. The Board noted that the “JFV” separation code corresponded to “condition (not a disability),” and was the precise separation code describing the underlying basis for Petitioner’s ELS discharge. Additionally, absent a material error or injustice, the Board declined to summarily make DD Form 214 changes solely for the purpose of facilitating veterans’ benefits, or enhancing educational or employment opportunities.

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RECOMMENDATION

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

That Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215) for the period ending 18 August 2020, to indicate the following changes:

That Petitioner's reentry code be changed to "RE-3G."

Following the corrections to the DD Form 214 for the period ending 18 August 2020 indicating the revised reentry code, that all other information currently listed on such DD Form 214 remain the same.

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 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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

11/1/2022

