



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

[REDACTED]  
Docket No: 5539-22

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 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

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 her characterization of service be upgraded to "Honorable." Enclosure (1) applies.

2. The Board, consisting of [REDACTED], and [REDACTED], 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.

b. Petitioner enlisted in the Navy and began a period of active duty on 8 July 2003. She served in the rating of machinist's mate (MM), successfully completing over 60 weeks of nuclear power training and attaining the rank of MM3 by January 2004. She served without documented incident for nearly 3 years, until she received nonjudicial punishment (NJP), on 27 April 2006, for a violation of Article 112a, wrongful use of a controlled substance (marijuana). Her evaluation report for the period following her NJP noted that her performance was commendable prior to her misconduct and that she had maintained a positive attitude while pending administrative action. She was processed for administrative separation for misconduct due to

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drug abuse under mandatory processing requirements and discharged, on 23 May 2006, under Other Than Honorable (OTH) conditions.

c. Petitioner previously applied to the Board, which considered her substantially similar contentions on 11 March 2022. In light of an unfavorable Advisory Opinion (AO) regarding both the service-connection of her condition as well as the nexus between her contended condition and her misconduct, her request was denied. She again contends that she suffered an undiagnosed mental health condition during her military service which she believes contributed to her misconduct prior to her discharge. In addition to documentary evidence of her October 2009 diagnosis of manic Bipolar I Disorder (BPD) with psychotic features and polysubstance abuse, she now provides an evidentiary letter in support of her contentions provided by her former service-spouse who is currently serving as the Assistant Program Manager for the Navy's Surface Ship Nuclear Propulsion. This letter, provided in support of her claim with the Department of Veteran's Affairs (VA) regarding the purported service-connection of her condition, specifies that he observed the onset of her BPD symptoms during military service, to include symptoms of depression, but that it took several years of mental health care prior to her receiving a proper diagnosis. Because this letter offered only a layperson observation of ambiguous symptoms and, more significantly, did not address the contended nexus between Petitioner's mental health condition and her drug abuse misconduct, the medical advisor determined that the letter did not materially change the previously considered AO and no new opinion was required.

#### 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. The Board reviewed her application under the guidance provided in the references.

The Board noted Petitioner's misconduct and does not condone it; however, the Board observed that her service was otherwise honorable with the exception of a single instance of marijuana use and that her final performance evaluation documented her commendable performance prior to her NJP, as well as her positive attitude during the separation proceedings, in spite of her former spouse's observation regarding depression prior to her discharge. The Board found Petitioner's OTH discharge unduly harsh in light of her overall service record and, accordingly, determined that it is in the interest of justice, purely as a matter of clemency, to grant a discharge upgrade to General (Under Honorable Conditions).

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the Sailor's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of her military record even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. The Board was not persuaded by the VA's decision to classify Petitioner's service as Honorable for the purpose of granting entitlement to VA benefits. The

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Board determined that the VA determination was made for completely different purposes and is not binding on the Department of Navy determination of an appropriate characterization of service. Further, the Board concluded Petitioner's reenlistment code remains appropriate in light of her unsuitability for further military service.

Although not specifically requested by the Petitioner, the Board also determined that Petitioner's narrative reason for separation, reenlistment code, separation code, and separation authority should be changed in the interests of justice to minimize the likelihood of negative inferences being drawn from her naval service in the future.

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 that, for the period ending 23 May 2006, her "General (Under Honorable Conditions)" discharge was issued for the narrative reason of "Secretarial Authority," under the authority of "MILPERSMAN 1910-164," with a separation code of "JFF."

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.

9/11/2022

[REDACTED]

Executive Director

[REDACTED]