



**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: 5557-22

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █  
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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 with attachments  
(2) Case summary  
(3) Subject's naval record (excerpts)  
(4) Advisory Opinion

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, filed enclosure (1) with this Board requesting that his Other than Honorable (OTH) characterization of service be upgraded and his narrative reason for separation be changed from "Misconduct (Serious Offense)" to "Secretarial Authority," with corresponding changes to his Separation Authority and Separation Code, in light of current guidelines as reflected in references (b) through (e). Enclosures (2) through (4) apply.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 7 November 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 references (b) through (e). Additionally, the Board also

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considered enclosure (4), the advisory opinion (AO), which was favorable to Petitioner's requested relief, as well as the supporting documentation provided by the Petitioner.

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.

c. Petitioner enlisted in the United States Navy on 23 September 2004. His service records show that, on 18 November 2005, Petitioner was found guilty at Summary Court Martial for violation of Uniform Code of Military Justice (UCMJ) Article 92 (dereliction in the performance of his duties). He was awarded 25 days confinement and forfeitures of pay. On 27 April 2006, Petitioner was found guilty at non-judicial punishment (NJP) for violating UCMJ Article 86 (unauthorized absence), Article 91 (insubordinate conduct towards a petty officer), Article 92 (failure to obey a lawful order or regulation), and Article 92 (Dereliction in the performance of his duties). He was awarded a reduction in rank, restriction, and forfeitures of pay.

d. On 27 April 2006, Petitioner's command initiated administrative separation proceedings by reason of misconduct due to commission of a serious offense, for the misconduct referenced above. Petitioner waived his rights to consult with qualified counsel, or to present a case in his defense at an administrative separation board. Prior to his discharge, Petitioner was again found guilty at NJP, this time for violation of UCMJ Article 128 (assault consummated by a battery). He was awarded a reduction in rank, 3 days bread and water, and forfeitures of pay. On 20 June 2006, Petitioner was discharged from the Navy with an OTH discharge by reason of misconduct and assigned an RE-4 reentry code.

e. On 20 February 2018, the Naval Discharge Review Board (NDRB) denied Petitioner's application for relief. Petitioner requested an upgrade to his characterization in order to obtain veteran's benefits/services. The NDRB highlighted that it does not have the authority to upgrade or change the reason for discharge to enable qualification for veteran's benefits/services but directed the Petitioner to apply directly to the Department of Veterans Affairs to determine eligibility. However, the NDRB did complete a thorough review of the circumstances that led to the discharge and the discharge process, and found that the discharge met the pertinent standards of equity and propriety.

f. Petitioner contends that he experienced psychotic symptoms such as paranoia and hallucinations during his military service. He explains that the misconduct, for which he was discharged, was a direct result of his mental health impairment. Specifically, he states that his actions were made in an attempt to cope with his newly experienced, unsettling psychotic symptoms. Petitioner provided a letter, dated 15 April 2022, from the Veterans Affairs Administration stating that treatment for "Service Connection for Schizophrenia now granted."

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[REDACTED]

Petitioner also provided a letter, dated 12 March 2021, from a psychiatric nurse, who indicated that she has been treating the Petitioner for the past 8 years for symptoms related to his diagnosed Schizophrenia. As a result, an advisory opinion was requested from a mental health professional. Enclosure (4) states in pertinent part:

Petitioner was not referred for psychological evaluation during his enlistment. Letter submitted by [REDACTED], NP indicated that she believed his behaviors in service were signs of prodromal schizophrenia. On his evaluation report dated 15 July 2005, it states petitioner, “needs constant prodding on uniform and grooming,” and “constantly fails to be at place of duty.” These observations together with his misconduct are commonly found in the early stages of a developing schizophrenia.

Enclosure (4) concludes, “it is my considered clinical opinion there is post-service evidence of a mental health condition (schizophrenia) that was likely present during military service. There is evidence the circumstances of the petitioner’s separation could be attributed to Schizophrenia.”

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner’s request warrants relief. While the Board noted Petitioner’s misconduct and does not condone his actions, it concluded his diagnosed Schizophrenia sufficiently mitigated his misconduct to merit a measure of relief. Specifically, under the guidance provided in references (b) through (e), the Board determined the mitigation evidence outweighed the severity of his misconduct. In making this finding, the Board substantially concurred with AO that there is evidence that Petitioner’s misconduct may be attributed to symptoms of his Schizophrenia. In addition to the AO, the Board relied on the letter submitted by the Petitioner’s grandmother who stated that he exhibited “intense mood swings” while in service and “always sounded angry and paranoid” when he called home. The Board also highlighted that although his pre-service medical screening did not note any mental health issues, symptoms of Schizophrenia typically begin emerging in the late teens or early twenties, and that Petitioner’s service could have aggravated his symptoms. Accordingly, the Board concluded that a measure of relief is warranted under the totality of the circumstances and that a General (Under Honorable Conditions) characterization of service is more appropriate than an OTH discharge. Based on this finding, the Board also determined that Petitioner’s narrative reason for separation, separation authority, and separation code should also be changed to Secretarial Authority in the interests of justice.

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

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214) that shows that on 20 June 2006, his characterization of service was “General (Under Honorable Conditions)”, narrative reason for separation was “Secretarial Authority”, separation code was “JFF” and separation authority was “MILPERSMAN 1910-164”.

That no further changes be made to the record.

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.

11/21/2022

[REDACTED]