



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

█  
Docket No: 5890-22

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █  
XXX XX █ USMC

Ref: (a) Title 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/attachments  
(2) Naval record (excerpts)

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 Certificate of Release or Discharge from Active Duty (DD Form 214) characterization of service be upgraded to Honorable.

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error and injustice on 14 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, applicable statutes, regulations, and policies, to include references 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 determinations (Wilkie Memo) regarding equity, injustice, or clemency determinations. Additionally, the Board also considered the advisory opinion (AO) furnished by qualified mental health provider and Petitioner's response to the AO.

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 regulation within the Department of the Navy. 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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b. During the Petitioner's enlistment processing he disclosed a prior use of marijuana and traffic violations to include a charge of driving while intoxicated and was granted an enlistment waiver. Petitioner enlisted in the U.S. Marine Corps and began a period of active duty on 20 January 1987. On 7 June 1989, Petitioner commenced a period of unauthorized absence (UA) which ended in his surrender 28 days later. On 7 July 1987, he was counseled regarding his UA and chose not to submit a statement on his behalf. On 8 July 1987, Petitioner received nonjudicial punishment (NJP) for the aforementioned UA. On 9 July 1987, he was counseled regarding a dependent personality disorder with severe suicide ideation and his poor attitude toward the military.

c. On 17 August 1987, Petitioner was notified that he was being recommended for administrative separation from the USMC by reason of Convenience of the Government (COG) condition not a physical disability personality disorder. Petitioner was advised of, and waived his procedural right, to consult with military counsel.

d. On 18 August 1987, Petitioner's commanding officer (CO) forwarded his administrative separation package to the separation authority (SA) recommending Petitioner's be administratively discharged from the Navy by reason of COG. The SA approved the recommendation and directed Petitioner be discharged with a General (Under Honorable Conditions) (GEN). As a result, on 9 September 1987, he was so discharged.

e. Petitioner contends he was suffering from undiagnosed PTSD during military service which might have mitigated his discharge character of service. For purposes of clemency and equity consideration, Petitioner did not provide supporting documentation describing post-service accomplishments or advocacy letters. In fact, the Board noted Petitioner is currently incarcerated.

f. As part of the Board's review, a qualified mental health professional reviewed Petitioner's request and provided the Board with an advisory opinion (AO). The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information 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. Unfortunately, he has provided no medical evidence to support his claims of PTSD and there is no evidence of error. His misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would strengthen the opinion.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence his misconduct could be attributed to PTSD."

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g. On 23 October 2022, the Board received Petitioner's rebuttal in response to the AO in which he states he is not challenging his discharge reason or attempting to reenlist but was told his discharge would be upgraded to Honorable after six months.

## CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined partial relief was warranted. Specifically, the Board determined that Petitioner's narrative reason for separation should be changed to Secretarial Authority with associated changes to his DD Form 214.

In keeping with the letter and spirit of the Hagel, 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 recommended corrective action below, the Board determined Petitioner's request for a discharge upgrade was not supported by the preponderance of the evidence. 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, Hagel, and Wilkie Memos. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his period of UA, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and weighed it against the brevity of his active duty service. The Board also noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. As a result, the Board concluded that significant negative aspects of his active duty service outweighed the positive aspects and continue to warrant a GEN characterization of service. 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 Petitioner's characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. Similarly, the Board concluded Petitioner's reentry code remains appropriate in light of his record of misconduct and unsuitability for further military service.

## 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 "Secretarial Authority," the separation authority as "MARCORSEPMAN 6214," and the separation code as "JFF1."

That no further action be granted.

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That a copy of this report of proceedings be filed in Petitioner's naval record.

4. It is certified that 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.

12/4/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]