



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

█
Docket No: 6267-22

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF █
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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 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

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 naval record be corrected to upgrade her characterization of service and make other conforming changes to her DD Form 214 following her discharge for a medical condition, not a disability.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 22 December 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 determinations (Wilkie Memo). Additionally, the Board also considered the advisory

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opinion (AO) furnished by a qualified mental health provider. Although Petitioner was provided an opportunity to submit an AO rebuttal for consideration, 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. The Petitioner enlisted in the Navy and entered active duty on 7 June 2021. Petitioner's pre-enlistment physical, on 8 September 2020, and self-reported medical history noted no psychiatric or neurologic conditions or symptoms.

c. Petitioner was psychiatrically admitted to Naval Medical Center [REDACTED] from 16 February 2022, and released with diagnoses of adjustment disorder with depressed mood, cluster B traits (borderline predominant), r/o unspecified depressive disorder, and r/o other specified trauma stressor-related disorder.

d. Following her hospitalization, the Petitioner was notified that she was being processed for an administrative discharge by reason of convenience of the government due to a medical condition not a disability. Ultimately, on 8 April 2022, the Petitioner was discharged from the Navy with a General (Under Honorable Conditions) (GEN) characterization of service with "Condition, Not a Disability" as the listed narrative reason for separation and "JFV" as the listed separation code. The Petitioner also received an "RE-4" reentry code which corresponded to "ineligible for reenlistment."

e. Petitioner's overall conduct trait average assigned on her periodic performance evaluations during her brief enlistment was 3.0. Navy regulations in place at the time of her discharge required a minimum trait average of only 2.5 in conduct (proper military behavior), for a fully honorable characterization of service.

f. Naval Military Personnel Manual (MILPERSMAN) section 1900-120 paragraph 6, stated that the characterization of service for conditions not amounting to a disability is Honorable unless a GEN characterization was warranted.

g. In short, Petitioner contends she currently has the resources and mechanisms in place in order to continue serving and performing at her best. She also contended that her dedication, work ethic, and ability to work well with others was consistent and unwavering, and that she remains highly motivated to better herself as an individual and a Sailor. Petitioner also pointed out that she had no documented misconduct in her record.

h. 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 24 October 2022. The Ph.D. stated in pertinent part:

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The Petitioner submitted partial records from her hospitalization as evidence. The records submitted included only summary diagnoses and no clinical notes. There is evidence that she was diagnosed with mental health conditions during service. Unfortunately, her personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with the circumstances of her discharge. Stressors in military life are different from civilian life; consequently, it is typical for a personality disorder to improve after separation from service and the restrictive and demanding military environment. In my clinical opinion, her narrative reason for discharge and characterization of service appeared appropriate given her mental health diagnoses. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her discharge) would aid in rendering an alternate opinion.

The Ph.D. concluded, "it is my considered clinical opinion there is sufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that the circumstances of her diagnoses are in error."

CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief.

In keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, the Board believed that there was an injustice in separating the Petitioner with a GEN characterization for service. The Board noted the MILPERSMAN guidance defaults to an Honorable characterization unless a lower characterization was warranted. The Board also noted that there were no instances of adjudicated misconduct in Petitioner's service record, and further noted that Petitioner's conduct trait average exceeded the recommended guidance for an Honorable characterization. With that being determined, the Board concluded that no useful purpose is served by continuing to characterize the Petitioner's service as having been under GEN conditions. Especially in light of the Wilkie Memo, the Board concluded after reviewing the record holistically, and given the totality of the circumstances, that a discharge upgrade is appropriate at this time.

Additionally, 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 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 she is currently without any disqualifying medical or mental health issues and is otherwise fit to pursue a Navy career should she choose to do so. The Board determined that recruiting personnel will be responsible for determining whether Petitioner

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currently meets the standards for reenlistment and whether or not her reenlistment is feasible given her previous medical history and military service. Accordingly, the Board granted the requested relief as requested by Petitioner, namely to change her 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 her discharge.

RECOMMENDATION:

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

That Petitioner's character of service be changed to "Honorable," and the reentry code be changed to "RE-3G."

Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty.

Petitioner shall be issued a new Honorable Discharge Certificate.

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.

1/6/2023

[REDACTED]
Executive Director
[REDACTED]