



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

█  
Docket No: 6408-22

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF █ █, USN,  
XXX-XX-█

Ref: (a) Title 10 U.S.C. §1552  
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)  
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)  
(d) USECDEF Memo of 25 Aug 2017 (Kurta Memo)  
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments  
(2) Naval record (excerpts)  
(3) Advisory Opinion of 25 Oct 22

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 an upgrade of his characterization of service. Enclosures (2) and (3) apply.

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error and injustice on 7 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, applicable statutes, regulations, and policies, to include references (b) through (e).

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.

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 Navy and began a period of active duty on 2 August 1989.

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d. On 16 March 1992, Petitioner commenced a period of unauthorized absence (UA) that concluded upon his apprehension by civilian authorities and return to military authorities on 22 June 1992, totaling 98 days.

e. On 2 July 1992, Petitioner received non-judicial punishment (NJP) for UA.

f. On 9 July 1992, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense. Petitioner was advised of, and waived his procedural right to consult with military counsel, and to present his case to an administrative discharge board (ADB).

g. Petitioner's commanding officer (CO) forwarded the administrative separation package to the separation authority (SA) recommending that Petitioner be administratively discharged from the Navy with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation for administrative discharge and directed Petitioner's OTH discharge from the Navy. On 7 August 1992, Petitioner was discharged from the Navy with an OTH characterization of service by reason of misconduct due to commission of a serious offense. Upon his discharge, he was issued a Certificate of Release or Discharge From Active Duty (DD Form 214) that erroneously lists his narrative reason for separation as misconduct due to drug abuse.

h. Petitioner contends that he incurred mental health concerns after learning that he was not biologically related to his father. Petitioner asserts that he was home on leave when he found out that the person whom he thought was his father was actually his stepdad. After learning of this, he went into a tailspin emotionally and started abusing alcohol abuse while suffering from extreme emotional distress.

j. For purposes of clemency and equity consideration, the Board noted Petitioner did not provide supporting documentation describing post-service accomplishments or advocacy letters.

k. As part of the Board's review, a qualified mental health professional reviewed Petitioner's request and provided the Board with enclosure (3), an advisory opinion (AO). The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment, properly evaluated, and diagnosed with an alcohol use disorder and problematic personality traits. These diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the military psychiatrist. He was also evaluated by a civilian psychologist during his period of UA and diagnosed with other mental health concerns. There is no evidence of a diagnosis of PTSD and he has provided no additional medical evidence to support his claims. There is insufficient evidence to attribute his misconduct to a mental health condition, given his statement regarding poor management of distressing family information. Additional records (e.g., mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

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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 evidence of other mental health concerns that may be attributed to military service. There is insufficient evidence his misconduct may be attributed to PTSD or another mental health condition.”

## CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner’s request warrants partial relief in the interests of justice.

In regard to Petitioner’s request for an upgrade of his characterization of service, 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. The Board found no error in Petitioner’s OTH characterization of service discharge for separation for misconduct due to commission of a serious offense. However, because Petitioner based his claim for relief in whole or in part upon his PTSD and MHC, the Board reviewed his application in accordance with the guidance of references (b) through (e).

The Board applied liberal consideration to Petitioner’s mental health condition and the effect that it may have had upon his misconduct in accordance with references (b) through (d), and considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Board did not believe that relief is warranted under the totality of the circumstances. In making this finding, the Board considered the seriousness of Petitioner’s misconduct and concluded his misconduct showed a complete disregard for military authority and regulations. Further, the Board also considered the likely negative impact his conduct had on the good order and discipline of his command. Furthermore, the Board concurred with the AO that while there is evidence of other mental health concerns that may be attributed to military service, there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service, and there is insufficient evidence his misconduct may be attributed to PTSD or another mental health condition. In addition, 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits, or enhancing educational or employment opportunities. The Board concluded by opining that Petitioner’s conduct constituted a significant departure from that expected of a Sailor, even under the liberal consideration standards for mental health conditions, and continues to warrant an OTH characterization. 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 your characterization of service or granting an upgraded characterization of service as a matter of clemency or equity.

However, as previously mentioned, the Board determined that Petitioner’s DD Form 214 contains an error. The Board noted that Block 28 (Narrative Reason for Separation) of the DD Form 214 inaccurately reflects his Narrative Reason for Separation as “Discharged Due to Misconduct (Drug Abuse).” In this regard, the Board determined that the error was administrative and concluded that Block 28 should accurately reflect “Misconduct due to Commission of a Serious Offense.”

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RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 215 reflecting Block 28 (Narrative Reason for Separation) to read "Misconduct due to Commission of a Serious Offense."

That no further changes be made to Petitioner's record.

That a copy of this record 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.

