



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: 6449-22
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. §1552
(b) SECDEF Memo of 3 Sep 14 “Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD”
(c) PDUSD Memo of 24 Feb 16 “Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI”
(d) PDUSD Memo of 25 Aug 17 “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”

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion dated 1 Sep 2022

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy filed enclosure (1) with this Board requesting that his Other Than Honorable (OTH) characterization of service be upgraded in light of current guidelines as reflected in references (b) and (d). Enclosures (2) through (4) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 16 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 the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel 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 enclosure

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(4), the advisory opinion (AO) dated 1 September 2022. The opinion was considered favorable to the Petitioner's application.

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, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. After a period of honorable service, Petitioner reenlisted in the Navy on 31 October 1980. On 21 February 1981, Petitioner received non-judicial punishment (NJP) for possession of marijuana. On 17 December 1984, Petitioner was placed on a 24-hour urinalysis program. On 24 July 1985, Petitioner received a medical evaluation and was diagnosed with alcoholism and a mixed personality disorder. On 16 October 1985, Petitioner completed the Alcohol Abuse Rehabilitation Program. On 24 July 1986, he received an additional NJP for possession of marijuana. As a result, Petitioner was notified of pending administrative separation action by reason of misconduct due to drug abuse. On 20 August 1986, a Drug and Alcohol Abuse Report noted that Petitioner continued drinking after completing six months in the aftercare program, tested positive for marijuana on 12 June 1986, and has a long history of depressive episodes. The report also noted that Petitioner was not drug dependent and has a poor potential for continued service and rehabilitation. After waiving his rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge by reason of misconduct due to drug abuse with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation and, on 23 September 1986, Petitioner was discharged for misconduct drug abuse with an OTH characterization of service.

d. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. On 31 August 1987, the NDRB denied Petitioner's request after determining his discharge was proper as issued.

e. Petitioner contends he incurred mental health concerns during military service, which might have mitigated his discharge characterization of service. He also raised the issue that he had undiagnosed mental health conditions in service that may have mitigated the circumstances of his discharge. As a result, an AO was requested from a mental health professional. Enclosure (4) states in pertinent part:

There is evidence that the Petitioner was diagnosed in service with a mental health condition. In May 1985, the Petitioner self-referred to the ER complaining of depression; He was subsequently admitted to the inpatient psychiatric unit at [REDACTED] Medical Center for one week. Notes from the hospitalization indicate, "He had prior to coming to the Emergency Room called the Suicide Hotline...complained of insomnia, weight loss, job stress, irritability and fear of failing." He was discharged with a diagnosis of Major Affective

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Illness/Depression. In July 1985, a routine psych note reads, "He enlisted in the Navy at the age of 20 and despite a high (ASVAB scores), he has always managed to pass but barely in all the courses he has taken. Initially he was reprimanded for poor dress and grooming and lack of self confidence in being a leader. During other periods he has been quoted as being outstanding, enthusiastic and showing much initiative." This observation of fluctuating behaviors and affect is consistent with a diagnosis of Bipolar Affective Disorder. Another note (undated) notes a diagnosis of Alcohol Dependence, and "History reveals repeated episodes of depression periodically reported during past 4 years. History also reveals chronic alcohol consumption during past 4 years." Medical note dated July 23, 1985 notes that the Petitioner had been attending AA Meetings weekly and was referred to MHU (Mental Health Unit) for "f/u for Dysthymic Disorder." The Petitioner was referred to alcohol programming and completed DAPA in October 1985. Medical note dated August 20, 1986 indicates, "31-year-old referred for Drug/ETOH (alcohol) evaluation following + UA (urinalysis) for THC (marijuana) on 12 June 1986. Long history of depressive episodes. Evaluated several times for ETOH abuse with diagnosis of ETOH Dependence." The Petitioner's in service diagnosed Depression was likely the early observation of what would be Bipolar Affective Disorder. Documented episodic insomnia, weight fluctuations, widely varying performance evaluations, and substance abuse are further evidence that the Petitioner may have been suffering from Bipolar Affective Disorder in service.

Enclosure (4) concludes, "it is my considered clinical opinion there is sufficient evidence of a mental health condition that existed in service. There is sufficient evidence that his misconduct could be attributed to a mental health condition (Bipolar Affective Disorder)".

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 mental health condition (MHC) sufficiently mitigated his misconduct to merit relief. Specifically, under the guidance provided in references (b) and (c), 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 Bipolar Affective Disorder. Accordingly, the Board concluded that no useful purpose is served by continuing to characterize the Petitioner's service as having been Other Than Honorable (OTH) and re-characterization to an Honorable discharge is now more appropriate. Based on this finding, the Board also determined that Petitioner's narrative reasoning for separation, separation authority, separation code, and reenlistment code should also be changed in the interests of justice.

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

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RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) that shows that on 23 September 1986, his characterization of service was "Honorable", narrative reason for separation was "Secretarial Authority", separation code was "JFF", reenlistment code was "RE-1J", and his 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 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.

12/6/2022

