



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

██████████
Docket No: 6682-22
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER ██████████, USN,
██████████

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" (Kurta Memo)
(e) SECDEF 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 dated 7 November 2022

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Navy filed enclosure (1) with this Board requesting that his General (Under Honorable Conditions) (GEN) characterization of service be upgraded. He also implied a request that his Narrative Reason for Separation be changed from "Personality Disorder" to "Secretarial Authority" with associated changes to his reenlistment code, separation Code (SPD), and separation authority. Enclosures (1) through (4) apply.

2. The Board, consisting of ██████████, and ██████████, 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 references (b) through (e). Additionally, The Board also

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considered enclosure (4), the advisory opinion (AO) from a qualified medical professional. Although Petitioner was provided an opportunity to comment on the AO, 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. 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 on 17 December 1996. On 17 October 1997, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA) for 18 days.

d. Unfortunately, the documents pertinent to Petitioner's administrative separation are not in his official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that he was separated from the Navy on 26 November 1997 with a GEN characterization of service, narrative reason for separation of "Personality Disorder," your separation code of "JFX," and a reentry code is "RE-4."

e. Based on Petitioner's assertion of a mental health condition, enclosure (4) was requested and reviewed. It stated in pertinent part:

The Petitioner contends that he suffered from a mental health condition during service which may have mitigated the circumstances of his discharge. He stated that he is 100% service connected for Major Depressive Disorder and does not believe that the diagnosis of personality disorder was accurate. Active duty medical records are not available for review, however the Petitioner noted on a Report of Medical History dated November 1997, "I went to mental health because of problems with the command." There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

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

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

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. In keeping with the letter and spirit of the Wilkie Memo, the Board determined that it would be an injustice to label one's discharge as being for a diagnosed personality 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. Specifically, the Board determined a change to his Narrative Reason for Separation to Secretarial Authority with associated changes to his separation authority and code were appropriate.

Regarding Petitioner's request to upgrade his characterization of service, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in his case in accordance with Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, his desire for a discharge upgrade and contentions that he suffered from depression issues during military service, he is 100% service connected for major depressive disorder, and he believes that his diagnosis of a personality disorder was inaccurate.

Based upon this 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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct against the brevity of his service. Further, the Board concurred with enclosure (4) that there is insufficient evidence his misconduct could be attributed to a mental health diagnosis. Additionally, the Board noted that there is no evidence in his record, and he submitted none, to support his contentions. As a result, the Board concluded significant negative aspects of Petitioner's active service outweighed the positive aspects and continues to warrant a GEN 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 Petitioner's characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. Similarly, the Board determined that Petitioner's reenlistment code should remain unchanged based on his record of misconduct and unsuitability for further military service. Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed through the corrective action recommended below.

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 214) that shows, for the period ending 26 November 1997, his narrative reason for separation as

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“Secretarial Authority,” separation code as “JFF,” and separation authority as “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.

1/13/2023

[REDACTED]

Executive Director

[REDACTED]