



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

█
Docket No. 7329-22

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 13 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)
(3) Advisory Opinion of 25 Nov 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 for an upgrade of his characterization of service.

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error and injustice on 22 February 2023 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). The Board also considered enclosure (3), an advisory opinion from a qualified mental health professional. Although Petitioner was provided an opportunity to respond to 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 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 11 October 2001.

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- d. On 8 February 2002, Petitioner was issued an administrative remarks (Page 11) counseling regarding failure to adapt to the military environment.
- e. On 11 February 2002, Petitioner's chronological record (Page 3) annotated a change in primary duty, and assignment to the student separations (STUD TSEP) element of the command.
- f. On 2 April 2002, Petitioner was issued an administrative remarks (Page 11) counseling for a violation of Article 86, Unauthorized Absence, from 1800 on 18 February to 1400 on 19 February 2002, which provided recommendations for corrective action. He chose not make a statement regarding the counseling.
- g. On 10 April 2002, Petitioner was issued an administrative remarks (Page 11) counseling regarding a mental state which rendered him unsuitable for further training, noting the considerable resources expended in order to address his unmotivated, unproductive and ineffective behavior as well as the risk he posed to himself and others that inhibited the training of Marines within his battalion. Remarks further captured his inability to deal with the stresses of Marine Combat Training, resulting in his inability to complete the course of training at the School of Infantry. Lastly, remarks advised him that he was being recommended for separation per paragraph 6203.3 of the Marine Corps Separations Manual. He chose not to submit a written statement in rebuttal.
- h. Petitioner's commanding officer (CO) then forwarded the administrative separation package to the separation authority (SA) recommending that Petitioner be administratively discharged from the Marine Corps. The SA approved the recommendation for administrative discharge and directed Petitioner's administrative discharge from the Marine Corps with a characterization of service as Uncharacterized, by reason of a diagnosed personality disorder.
- i. Petitioner contends there were no prior mental health conditions upon enlistment in 2001, before or after basic training, although he endured an undiagnosed mental health condition eight months later. The Petitioner further asserted he was currently suffering mental health issues, and through the assistance of the Veterans Administration he became aware of the guidelines concerning an upgrade to discharges.
- j. For purposes of injustice and equity consideration, the Board noted Petitioner provided supporting documentation as a copy of his DD 214 Form, post-service civilian medical records dated 16 September 2022, which contained a diagnosis of chronic Post Traumatic Stress Disorder (PTSD), and remarks regarding depressive vs. bipolar disorder, and alcohol use disorder.
- k. In connection with Petitioner's assertions that he incurred PTSD during military service, which might have mitigated the circumstances surrounding his separation from service, the Board requested, and reviewed an Advisory Opinion (AO) provided by a mental health professional, who reviewed the Petitioner's request for correction to his record and provided the Board with an AO, enclosure (3). The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His personality disorder diagnosis was based on

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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. Post-service, he has provided evidence of diagnoses of PTSD and other mental health conditions that are temporally remote to military service and appear unrelated. The circumstances surrounding his separation from service appear 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 military service) may aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence the circumstances of his separation could be attributed to PTSD or another mental health condition, other than his diagnosed personality disorder".

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. Although not specifically requested by the Petitioner, 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 Board decision to grant a Secretarial Authority discharge in Petitioner's case, they concluded his reentry code remains appropriate in light of his unsuitability for further military service.

Regarding Petitioner's request for a discharge upgrade to Honorable, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with references (b) through (e). These included, but were not limited to, Petitioner's desire to upgrade his discharge character of service to Honorable and contention that he suffered from a mental health condition that affected his behavior during initial days of combat training following boot camp.

After thorough review, the Board concluded that Petitioner's potentially mitigating factors were insufficient to warrant further relief. The Board noted that his uncharacterized entry-level separation remains appropriate based on his administrative separation processing that was initiated within the first 180 days of his active duty service. While a member may be assigned a characterized discharge while in an entry-level status when exceptional circumstances involving personal performance or misconduct exist, the Board found no evidence of either to merit an exception to policy. In making this finding, the Board concurred with the AO in that there is

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insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service, and there is insufficient evidence that his discharge could be attributed to a mental health condition other than personality disorder. Therefore, even in light of reference (e) and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the relief he requested or granting relief as a matter of clemency or equity.

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 214 reflecting that his narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MARCORSEPSMAN par 6214."

That no further correction action be taken on Petitioner's naval 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.

3/9/2023

