



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

█
Docket No. 8123-22

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 3 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 with enclosures
(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 his narrative reason for separation and reentry code be changed, and his rank be restored to E-4.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 20 March 2023, and, pursuant to its regulations, determined the corrective action indicated below should be taken. Documentary material considered by the Board consisted of the Petitioner's application together with all material submitted in support thereof, 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 considered the advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to Petitioner. Although Petitioner was afforded an opportunity to submit a rebuttal, 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.

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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 9 February 1987. On 16 January 1989, administrative remarks in Petitioner's official military personnel file (OMPF) document he was frocked to E-4. On 1 May 1989, Petitioner was hospitalized after a suicide attempt on 30 April 1989. During his hospitalization he was evaluated and diagnosed with Personality Disorder, Not Otherwise Specified, with Passive-Aggressive, Immature, and Antisocial Traits; Adjustment Disorder with Mixed Disturbance of Emotions and Conduct, and Alcohol Abuse, no dependence. Subsequently, he was returned to duty and found, "psychiatrically fit and accountable."

d. Unfortunately, the documents related to Petitioner's administrative separation are not in his OMPF. In this regard, 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 (as is the case at present), will presume that they have properly discharged their official duties. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), reveals he was separated from the Navy on 15 May 1989 with an honorable (HON) characterization of service. His Record of Discharge documents his narrative reason for separation is "Other Physical/Mental Condition – Personality Disorder," his separation authority is "MILPERSMAN 3620200 & NAVOP 013/87," his separation code as "JFX," and his reentry code as "RE-4" (Ineligible for reenlistment).

e. Petitioner contends he incurred PTSD and a traumatic brain injury (TBI) during military service. For purposes of clemency and equity consideration, Petitioner provided medical, department of veterans affairs (VA), and U.S. Customs/Border Protection documentation.

f. Based on Petitioner's assertion that he incurred mental health concerns during military service, which might have mitigated the circumstances surrounding his discharge, a qualified mental health professional reviewed his request for correction to his record and provided the Board with the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during an inpatient hospitalization. His personality disorder was based on 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. He also received other mental health diagnoses during military service, including Adjustment Disorder and Alcohol Abuse. Post-service, the VA has granted service connection for PTSD. It is possible that symptoms identified as Adjustment Disorder during military service have been re-conceptualized as PTSD with the passage of time and increased understanding. There is insufficient evidence of TBI, particularly given the Petitioner's report during his discharge physical. Additional records (e.g., post-

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service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is post-service evidence for the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence of TBI that may be attributed to military service."

g. Petitioner was previously denied relief by the Naval Discharge Review Board on 24 January 1991, and at this board, on 13 May 2004 and 29 June 2015. As part of the 29 June 2015 hearing, an advisory opinion by Commander, Navy Personnel Command was considered. The AO stated, "[Petitioner's] record shows he took the September 1988 cycle 120 Navy Wide Advancement Examination (NWAE) and was selected to RM3 with an effective date of 16 May 1989. He was discharged from active duty on 15 May 1989. In view of the above information, it is recommended that [his] petition be disapproved. He was discharged the day before the effective date of his advancement to E-4."

CONCLUSION:

The Board reviewed Petitioner's application under the guidance provided in references (a) through (e). Upon review and consideration of all the evidence of record, the Board concluded, that the Petitioner's request warrants favorable action in the form of partial relief.

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 recommended corrective action, the Board found no basis to grant Petitioner's request to advance him to the paygrade of E-4. In making this finding, the Board noted Petitioner had not yet been advanced to E-4 at the time of his discharge. Further, the Board concurred with the mental health AO that there is insufficient evidence that PTSD or TBI can be attributed to Petitioner's military service or his administrative separation. As a result, the Board found no error or injustice with Petitioner's administrative separation based on his personality disorder or the issuance of a RE-4 reentry code due to his unsuitability for further military service.

RECOMMENDATION:

In view of the above, the Board directs the following corrective action:

Petitioner be issued a new Discharge Certificate and DD Form 214 indicating the narrative reason for separation as "Secretary Plenary Authority," the separation authority as

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“MILPERSMAN 3630900,” and the separation code as “JFF.”

No further changes be made to Petitioner’s record.

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.

4/3/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]