



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

█
Docket No. 8867-22

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF █
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Ref: (a) 10 U.S.C. § 1552

(b) SECDEF Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder," of 3 September 2014 (Hagel Memo)

(c) PDUSD Memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI," of 24 February 2016

(d) USD Memo, "Clarifying Guidance to Military Discharge Review Boards and 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," of 25 August 2017 (Kurta Memo)

(e) USECDEF 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

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 naval record be corrected to upgrade his characterization of service and change his narrative reason for separation.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 17 April 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, and applicable statutes, regulations, and policies, to include references (b) – (e). Additionally, the Board also considered the advisory opinion (AO) furnished by qualified mental health provider. Although Petitioner was given the opportunity to submit an AO rebuttal, he chose not to do so.

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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. The Petitioner enlisted in the United States Navy and began a period of active service on 18 November 1997.

d. On 19 August 1998, Petitioner was discharged from the Navy with a General (GEN) discharge and assigned an RE-4 reenlistment code. The Board specifically noted on Petitioner's DD Form 214 that the narrative reason for separation was "Personality Disorder" with a separation code of "HFX."

e. Subsequent to his discharge from the Navy, Petitioner was granted a waiver and served with the Army National Guard (ANG) from September 1999 to July 2007. He was discharged with an Honorable characterization of service.

f. Petitioner contends he incurred mental health concerns (PTSD) during military service, which might have mitigated his discharge characterization of service. Specifically, Petitioner asserts that he incurred PTSD from "constant hazing, maltreatment, harassment, pranks, and name-calling." He explains that, following an incident of harassment, he was crying while conducting food preparation, which resulted in a medical evacuation and subsequent separation from the service, after his superiors incorrectly interpreted the situation as a risk of self-harm. Petitioner provided a May 2019 psychological evaluation stating that the "nexus between feelings of disparity, racial discrimination, the chance of threats to physical integrity, and hopelessness directly correspond to the elements that identify an individual with PTSD." He was diagnosed with PTSD, Chronic; Major Depressive Disorder, Recurrent-Severe; and Insomnia Disorder.

g. As part of the Board's review process, a qualified mental health professional reviewed Petitioner's contentions and the available records and issued an AO dated 15 February 2023. The AO noted in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed. Post-service, a civilian provider has determined a diagnosis of PTSD that is temporally remote to his military service and has been attributed to racial harassment incurred during military service. Given the length of time for the Petitioner to receive a diagnosis of PTSD and his apparently successful service in the ANG after separation from the USN, it is difficult to attribute the circumstances of his separation from the USN to symptoms of PTSD. Additional records (e.g., active duty or post-service

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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 clinical opinion there is post-service evidence of a diagnosis of PTSD from a civilian provider that may be attributed to military service. There is insufficient evidence the circumstances of his separation may be attributed to PTSD."

CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants 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 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 below, the Board was not willing to grant an Honorable discharge characterization. The Board gave liberal and special consideration to Petitioner's record of service, and his contentions about how he was misdiagnosed with a Personality Disorder that has been more accurately diagnosed as PTSD post-service. In making this finding, the Board concurred with the AO that there is no evidence that the Petitioner was diagnosed with PTSD while in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition other than a Personality Disorder. The Board highlighted that the diagnosis of PTSD is temporally remote to his military service. The Board agreed with the AO that given the length of time between service and the PTSD diagnosis, as well as his Honorable service in the ANG after separation from the USN, it is difficult to attribute the circumstances of his separation from the USN to symptoms of PTSD. Even under the liberal consideration standard, the Board concluded that the Petitioner's poor performance was, more likely than not, due to his diagnosed personality disorder and not due to a mental health-related condition. The Board concluded that significant negative aspects of the Petitioner's performance outweighed the positive aspects of his military record even under the liberal consideration standards. Accordingly, a GEN discharge characterization remains appropriate in this case.

RECOMMENDATION:

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

That Petitioner's separation authority be changed to "MILPERSMAN 1910-164," the separation code be changed to "JFF," and the narrative reason for separation should be changed to "Secretarial Authority."

Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty reflecting the recommended changes.

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[REDACTED]

No additional changes are required to Petitioner's 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 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.

4/20/2023

[REDACTED]
Executive Director
[REDACTED]