

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]

Uniform Code of Military Justice (UCMJ), Art. 86, unauthorized absence (UA); as evidenced by his being in a UA status for over 20 minutes.

c. On 30 October 2001, Petitioner issued a Page 11 counseling concerning his inability to adapt to the daily rigors of the Marine Corps as evidenced by his attempted suicide and being recommended for entry level separation by the [REDACTED] Department.

d. Petitioner's separation physical of 13 November 2001 noted a diagnosis of adjustment disorder.

e. Unfortunately, the documents pertinent to Petitioner's administrative separation are not in his official military personnel file. 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. Based on the information contained on Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), Petitioner was separated from the Marine Corps, on 16 November 2001, with an "Under Other Than Honorable (OTH) Conditions" characterization of service, his narrative reason for separation is "Involuntary Discharge – Performance and Conduct," reenlistment code is "RE-4," and separation code is "JGA1," which corresponds to "Entry Level Performance and Conduct." Petitioner's final conduct average was 4.2.

f. Petitioner contends that he was erroneously diagnosed with a personality disorder, he incurred PTSD from a training incident. Additionally, during his service, he did not receive bad marks, he passed every PFT, and his conduct was up to standards. Furthermore, he cannot receive Department of Veterans Affairs health benefits or any type of compensation due to his character of discharge.

g. As part of the Board's review, a qualified mental health professional reviewed Petitioner's request and provided the Board with enclosure (3), an advisory opinion (AO). The AO stated in pertinent part:

The Petitioner's separation medical evaluation notes a diagnosis of Adjustment Disorder, which indicates difficulty adapting to the stresses of military service. There is no evidence that he was diagnosed with PTSD during 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. Although it is reasonable to consider that his performance may have been hindered by his mental health concerns, available records are not sufficiently detailed to establish a nexus with his UA. Additional records (e.g., active duty or post-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 clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is some in-service of a diagnosis of a

mental health condition (Adjustment Disorder) that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request merits relief. Additionally, because Petitioner based his claim for relief in whole or in part upon his PTSD, the Board reviewed his application in accordance with the guidance of references (b) through (e).

After a thorough review of the record and all supporting documentation, the Board determined that relief is warranted in light of the Wilkie Memo and Petitioner's Adjustment Disorder by upgrading his characterization of service to General (Under Honorable Conditions). Further, although not specifically requested by the Petitioner, the Board also determined that Petitioner's narrative reason for separation, separation authority, and separation code should be changed to Secretarial Authority in the interests of justice. However, the Board concluded Petitioner's reentry code should remain unchanged based on his unsuitability for further military service.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the service member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board relied on the presumption of regularity to find that Petitioner was administratively processed for separation based on performance and conduct related issues and these issues were sufficiently severe, despite his trait averages, to merit his separation. Therefore, they determined an Honorable characterization was not supported by his record. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION

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

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) reflecting that, for the period ending 16 November 2001, Petitioner's character of service was "General (Under Honorable Conditions)," the narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF1," and the separation authority was "MARCORSEPMAN 6214."

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

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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.

5/17/2023

