



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

[REDACTED]
Docket No. 9130-22

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]
USN, XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo, 3 Sep 14 (Hagel Memo)
(c) PDUSD Memo, 24 Feb 16 (Carson Memo)
(d) USD Memo, 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Advisory Opinion (AO) of 21 Mar 2023

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) requesting her discharge characterization be changed to Honorable. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 28 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 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 also considered the AO furnished by qualified mental health provider. Although Petitioner was provided an opportunity to respond to the AO, she 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 Navy on began a period of active service on 2 September 1998. On 21 September 1998, she underwent a mental health evaluation for depression. During the evaluation, Petitioner explained a history of suicidal attempts and was diagnosed with occupational problems and a borderline personality disorder, that existing prior to enlistment. As a result, Petitioner was notified of the initiation of administrative separation proceedings by reason of personality disorder. After Petitioner waived her rights, the discharge authority approved and directed Petitioner's discharge. Petitioner was discharged, on 29 September 1998, with an uncharacterized character of service by reason of personality disorder, and issued an RE-4 reentry code.

e. Petitioner contends she was told by a Petty Officer that her character of service would be changed to Honorable, she was going through depression and had PTSD, but her PTSD was misdiagnosed as a personality disorder.

f. In connection with Petitioner's assertion that she was suffering from PTSD during military service, which might have mitigated the circumstances of her discharge, the Board requested and reviewed an AO provided by a mental health professional. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during her enlistment. Her personality disorder diagnosis was based on observed behaviors and performance during her period of service, the information she 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. Unfortunately, she has provided no medical evidence to support her claims. Her in-service misconduct appears to be consistent with her 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 her 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 or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute the circumstances of her separation to PTSD or another mental health condition, other than her diagnosed personality disorder."

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 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

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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. However, the Board concluded Petitioner's reentry code remains appropriate in light of her unsuitability for further military service.

Notwithstanding the recommended corrective action below, the Board was not willing to upgrade her characterization of service 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 the Kurta, Hagel, and Wilkie Memos. The Board noted Petitioner was notified of the initiation of separation proceedings 23 days after her entry onto active duty. Applicable regulations direct the assignment of an uncharacterized character of service if the processing of an individual's separation begins within 180 days of the individual's entry on active service. While there are exceptions to the policy in cases of extraordinary performance or misconduct, the Board found none of the exceptions applied in Petitioner's case. In making their finding, the Board concurred with the AO that there is insufficient evidence to attribute the circumstances of her separation to PTSD or another mental health condition, other than her diagnosed personality disorder. Therefore, even in light of the Wilkie Memo and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner a discharge upgrade or granting a discharge upgrade as a matter of equity.

RECOMMENDATION

Petitioner be issued a new DD Form 214, for the period ending 29 September 1998, indicating her narrative reason for separation was "Secretarial Authority," separation authority was "MILPERSMAN 1910-164," separation code as "JFF."

That 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.

5/18/2023

[REDACTED]
Executive Director

Signed by: [REDACTED]