



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

[REDACTED]
Docket No. 9209-22

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]
[REDACTED]

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 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 change his narrative reason for separation, separation code, and reenlistment code following his involuntary discharge for a personality disorder.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 27 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 advisory opinion

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(AO) furnished by qualified mental health provider. Petitioner was given the opportunity to submit an AO rebuttal, but 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.

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 Marine Corps and began a period of active service on 30 March 1987.

d. In September 1988, Petitioner was evaluated after "becoming involved with a prostitute in town and developing subsequent financial difficulties." He was deemed fit for duty and no diagnosis was assigned.

e. On 29 December 1988, Petitioner received an Administrative Counseling (Page 11) addressing his failure to properly secure postal finance. Petitioner was advised that further deficiencies may result in disciplinary action or administrative separation.

f. On 10 April 1989, Petitioner received non-judicial punishment (NJP) for two specifications of violating Uniform Code of Military Justice (UCMJ) Article 92, for disobedience and dereliction of duty by leaving the mail unprotected. Petitioner did not appeal his NJP.

g. In April 1989, Petitioner was medically evaluated and diagnosed with Borderline Personality Disorder with Alcohol Use.

h. On 16 May 1990, Petitioner received another Page 11, formally counseling him for writing bad checks. His postal clerk occupation code was revoked.

i. From December 1990 to June 1991, he participated in Operation Desert Shield/Storm.

j. In September 1991, Petitioner received a mental health evaluation in the context of work stressors. He was deemed responsible for his behavior and diagnosed with Adjustment Disorder with Mixed Emotional Features, possible Alcohol Abuse, and Borderline personality features.

k. In November 1991, Petitioner entered inpatient substance use treatment after being diagnosed with Alcohol Dependence. In December 1991, he attempted suicide while receiving level III treatment, and was classified as an alcohol rehabilitation failure.

l. Petitioner's command initiated administrative separation proceedings by reason of his personality disorder and based on his alcohol rehabilitation failure. On 20 March 1992,

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Petitioner was discharged from the Marine Corps with an Honorable characterization of service and assigned an RE-4 reenlistment code. The Board specifically noted on Petitioner's DD 214 that the narrative reason for separation was listed as "Convenience of the Government, Condition Not a Physical Disability, Personality Disorder (Without Administrative Discharge Board)."

m. Petitioner contends that he was erroneously diagnosed with personality disorder during military service. He provided evidence of Department of Veterans Affairs (VA) service connection for General Anxiety Disorder (GAD). He also submitted a February 2015 diagnosis of chronic PTSD from "exposure to Scud missile attacks," and records noting he reported "experiencing MST in the past" and completed Cognitive Processing Treatment for PTSD. Petitioner asserts that his DD 214 should be amended because of recent changes in Department of Defense policy that, if in effect at the time of his discharge, would have resulted in the narrative reason for separation and separation code reflecting "Secretarial Authority" and a medically related reenlistment code.

n. 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 10 March 2023. The AO noted in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated on multiple occasions. His mental health diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service. Problematic alcohol use is incompatible with military readiness and discipline and does not remove responsibility for behavior. Post-service, the VA has granted service connection for GAD and provided treatment for PTSD. It is possible that symptoms identified as Adjustment disorder during military service have been reconceptualized as symptoms of PTSD and GAD with the passage of time and improved understanding. There is no evidence of error in the personality disorder diagnosis.

The AO concluded, "it is my clinical opinion there is post-service evidence from the VA of diagnoses of PTSD and another mental health condition that may be attributed to military service. There is insufficient evidence of error in his in-service diagnoses."

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

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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, the Board was not willing to grant a change to the reenlistment code. The Board gave liberal and special consideration to Petitioner's record of service, however, in light of the Petitioner's misconduct during service and his post-service mental health diagnoses, the issued RE-4 reenlistment code remains proper in this case.

RECOMMENDATION:

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

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) that shows that on 20 March 1992, his narrative reason for separation was "Secretarial Authority," his separation authority was "MARCORPSEPMAN, Par 6214," and his separation code was "JFF1."

That no further changes be made to the 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.

5/2/2023

