



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

█
Docket No. 1551-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
XXX XX █/█ USMC

Ref: (a) Title 10 U.S.C. §1552
(b) SECDEF Memo of 13 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 w/attachments
(2) Naval record (excerpts)
(3) Advisory Opinion of 30 Aug 23

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 for a change to her narrative reason for separation, separation code, and reenlistment code.

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error and injustice on 4 October 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, applicable statutes, regulations, and policies, to include references (b) through (e). In addition, the Board considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional and Petitioner's response to the AO.

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 regulation 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. Petitioner enlisted in the Marine Corps and began a period of active duty on 23 May 2006.

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d. On 8 June 2006, Petitioner referred for a mental health evaluation for disclosing previous psychiatric history. The mental health provider noted:

Member reported past thoughts of suicide and expressed that she would never do it because of her family. She reported cutting her left forearm once with a knife. She reported she is not sure why she cut her arm. She reported being court ordered to go to counseling for abuse and reported counseling for one year. She reported counseling ended in May 2006. Member denied inpatient "tx or meds." She did not disclose history previously. Recommend discharge based on Fraud.

e. On 9 June 2006, Petitioner was seen for a discharge evaluation. The mental health provider noted:

At the time of MEPS physical examination had all the facts been known, enlistment would not have taken place. All the facts were not known due to omission or inaccurate information provided at the time of the member's entrance physical. In light of this information and the evaluation by the MHU department, it was recommended that this member be administratively discharged from the military service.

f. Unfortunately, the documents pertinent to Petitioner's administrative separation are not in her 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 discharged from the Marine Corps on 22 June 2006, with an "Uncharacterized" entry level separation, Petitioner's narrative reason for separation is "Fraudulent Entry Into Military Service," reentry code is "RE-3P," and separation code is "JDA1" which corresponds to fraudulent entry into military service (no board).

g. Petitioner contends the following injustices warranting relief:

(1) At the time of separation, she had never been diagnosed with depression or self-mutilation by a healthcare professional;

(2) During her time in basic training, she attempted to disclose to her Senior Drill Instructor that she felt depressed being in training, but never did she state she was ever diagnosed or treated for depression or self-mutilation; and

(3) At the time she did exhibit symptoms of skin excoriation disorder (skin picking), but this is not the same as self-mutilation; skin excoriation disorder is not an attempt to inflict self-harm.

h. For purposes of clemency and equity consideration, the Board considered the evidence the Petitioner submitted in support of her application.

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i. 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:

Review of medical records from [REDACTED], [REDACTED] dated June 8, 2006 note, "Psychiatric hx [history] positive...suicidal hx...self-injurious behavior positive...She reported past thoughts of suicide and expressed that she would never do it because of her family...She reported cutting her left forearm once with a knife. She reported she is not sure why she cut her arm. She reported being court-ordered to go to counseling for abuse and reported counseling for one year. She reported counseling ended in May 06...She admitted she did not disclose her counseling to her recruiter or at MEPS."

The AO concluded, "it is my considered clinical opinion there is sufficient evidence of a mental health condition that existed prior to military service. There is insufficient evidence that separation due to fraudulent enlistment was in error."

j. In response to the AO, Petitioner provided a personal statement that supplied additional clarification of the circumstances of her case.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief in the interests of justice.

The Board found no error in Petitioner's uncharacterized (entry-level separation) for fraudulent entry into military service. However, because Petitioner based her claim for relief in whole or in part upon her mental health condition (MHC), the Board reviewed her application in accordance with the guidance of references (b) through (e).

Accordingly, the Board applied liberal consideration to Petitioner's claimed MHC and the effect that it may have had upon her conduct during basic training. In this regard, the Board substantially agreed with the AO in that there is sufficient evidence of a mental health condition that existed prior to military service, and there is insufficient evidence that separation due to fraudulent enlistment was in error.

In applying liberal consideration to Petitioner's MHC and any effect that it may have had upon her conduct, the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Board considered, among other factors, the mitigating effect of Petitioner's MHC may have had upon her conduct, and based upon this review, the Board found that Petitioner's MHC did have an effect on her conduct. After reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency, the Board concluded Petitioner's narrative reason for separation and separation code should be changed to Secretarial Authority.

However, the Board concluded Petitioner's reentry code should remain unchanged. The Board noted Petitioner's reentry code of "RE-3P" may not prohibit reenlistment, but requires that a

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waiver be obtained from recruiting personnel who are responsible for reviewing the feasibility of satisfying the Marine Corps' personnel manning goals by determining whether or not an individual meets the standards for reenlistment. If the Petitioner desires to reenlist, re-affiliate, or be reinstated in the Marine Corps, she must contact the Marine Corps Recruiting Command via her nearest recruiting facility. 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 recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 214 reflecting that, for the period ending 22 June 2006, Petitioner's narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF1," and the separation authority was "MARCORSEPMAN PAR 6214."

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

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that 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.

10/17/2023

