



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

█
Docket No. 2412-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, █,
USN, XXX-XX-█

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 3 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/ enclosures
(2) Advisory Opinion (AO) of 27 Jul 23

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with the Board requesting that his discharge be upgraded to “Honorable” and that the basis of “Personality Disorder” (PD) be removed from his narrative reason for separation, per references (b) through (e).

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 6 October 2023, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. 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). Additionally, the Board also considered enclosure (2), the advisory opinion (AO) furnished by qualified mental health provider, which was considered favorable to his contentions.

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. Petitioner enlisted in the Navy and began a period of active duty on 4 November 1999.

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d. During initial occupational training, Petitioner was diagnosed with PD with borderline and narcissistic traits. However, he indicated to both the Command Chaplain and executive officer that he desired to remain on active duty. Therefore, on 22 June 2000, he was issued administrative counseling regarding his retention notwithstanding his PD diagnosis provided that he took appropriate corrective action to ensure it did not affect his performance and conduct.

e. After transferring to his first non-training duty assignment, Petitioner incurred five periods of unauthorized absence (UA), each ranging from one to three days, between 15 September 2000 and 29 November 2000. He does not appear to have been subject to disciplinary action for any of these UAs.

f. Petitioner continued to serve without further incident for approximately 14 months until, on 7 February 2002, he received a follow-up psychological evaluation. In addition to his previous PD diagnosis, he was also diagnosed with Adjustment Disorder (AD) with depressed mood.

g. Petitioner discussed his mental health struggles with his officer leadership and was advised to seek help from medical if he continued having problems. Acting on this guidance, Petitioner sought medical care on 19 May 2002 for self-reported "general homicidal feelings and anger" with no indication of any criminal action or expressed intent. A subsequent memorandum from his senior enlisted leadership provided an update on his case status as well as statements from the attending hospital corpsmen confirming the nature of Petitioner's self-reported mental health concerns.

h. On 31 May 200, Petitioner was issued notice of separation by reason of convenience of the government for his diagnosed PD via notification procedures with a least favorable characterization of General (Under Honorable Conditions). He waived his right to submit a statement, did not contest the proposed separation, and was discharged on 6 June 2002.

i. In follow-on correspondence from Petitioner's command to Commander, Naval Personnel Command, the sole basis referenced for Petitioner's separation was his psychological evaluation and PD diagnosis. No reference was made to his previous periods of UA or to any other misconduct or disciplinary action, although the lost time was documented in his final record of discharge.

j. Petitioner contends that he experienced traumatic brain injury (TBI) twice during his military service, which he believes resulted in the mood swings and anger for which he sought care during 2002. Therefore, he believes that his PD diagnosis was in error. He also points out that he had no disciplinary action taken prior to his discharge, and he believes that his characterization of service is unjust in light of his overall record of service in conjunction with the mental health basis for his discharge. In support of his application, he submitted a personal statement, his official military personnel records, a psychological report and Department of Veterans Affairs records for his mental disorder examination as well as the rating decision with detailed medical reasons for his rated disabilities, which include service-connection for major depressive disorder (MDD).

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k. Because Petitioner contends that a mental health condition affected his discharge, the Board also requested the AO at enclosure (2) for consideration. The AO stated in pertinent part:

The Petitioner submitted VA disability letter indicating 10% service connection Major Depressive Disorder, Mild. There is evidence that the Petitioner was diagnosed with both a Depressive Disorder and a Personality Disorder while in service. The Adjustment Disorder diagnosis given him in February 2002 was likely in error, given his previous diagnosis of Major Depressive Disorder, and thus Depressive Disorder would have been a more accurate diagnosis given the pervasiveness and longevity of his depressive symptoms. Based on his symptoms and behaviors it appears as though the Petitioner met criteria for both Major Depression and a Personality Disorder, which is not terribly uncommon.

The AO concluded, "it is my considered clinical opinion there is sufficient evidence of a mental health condition (Major Depressive Disorder) that may be attributed to military service. There is insufficient evidence that his Personality Disorder diagnosis was in error, however it is possible that he in fact met criteria for both Major Depressive Disorder and a Personality Disorder.

l. Because Petitioner did not provide supplemental medical evidence in support of his TBI claim, no medical AO was requested on that issue.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants relief. The Board reviewed his application under the guidance provided in references (b) through (e). 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 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.

Regarding Petitioner's request for a discharge upgrade, the Board noted that Petitioner's periods of UA neither resulted in disciplinary action nor were they mentioned at any point with respect to his recommendation for separation due to his PD diagnosis. The Board concurred with the AO regarding the likelihood that Petitioner was suffering from MDD during his military service and found his mental health contentions sufficiently mitigating to merit a fully Honorable characterization of service. In this regard, the Board also noted the proactive measures Petitioner took with respect to his own concerns for his mental health, to include seeking timely medical attention. Although the AO observed that the PD diagnosis was likely concurrent with Petitioner's other mental health concerns and, therefore, not likely to constitute error, the Board nevertheless concluded that reference to Petitioner's private mental health concerns also warrants correction with respect to his narrative reason for separation. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief.

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Notwithstanding the recommended corrective action below, the Board determined Petitioner's reentry code remains appropriate in light of his unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 2 June 2006, his "Honorable" discharge was issued under the authority of "MILPERSMAN 1910-164," with a narrative reason for separation of "Secretarial Authority," and a separation code of "JFF."

That Petitioner be issued an Honorable Discharge certificate.

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.

10/24/2023

