



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

██████████  
Docket No. 2684-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████  
XXX XX ██████████ USMC

Ref: (a) Title 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 w/attachments  
(2) Subject's naval record  
(3) Advisory Opinion by a Ph.D., Licensed Clinical Psychologist, 9 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 to correct his DD Form 214, Certificate of Release or Discharge from Active Duty by upgrading his discharge characterization from under other than honorable (OTH) conditions to Honorable.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 25 September 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 the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) through (e). The Board also considered the advisory opinion (AO), enclosure (3), furnished by a qualified mental health professional, which was previously provided to Petitioner. Although Petitioner was afforded an opportunity to submit an AO rebuttal, he did not do so.

3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review Petitioner's application on its merits. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error or injustice, finds as follows:

- a. Petitioner enlisted in the Marine Corps and began a period of active duty on 8 July 2003.
- b. Petitioner deployed to ██████████ in support of ██████████ from 9 April 2004 to 9 October 2004, and received a Combat Action Ribbon.
- c. On 7 December 2005, Petitioner was convicted by Summary Court-Martial (SCM), under Article 112A, Uniform Code of Military Justice for wrongful use of a controlled substance on or

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about 8 August 2005. Petitioner was found guilty and sentenced to reduction in grade/rank, forfeiture of pay, and restrictions.

d. On 22 January 2006, Petitioner was notified of the proposed administrative separation procedures, and that he is being recommended for an administrative discharge from the Marine Corps by reason of drug abuse as evidenced by his positive test results by the San Diego Naval Drug Laboratory and SCM conviction, and if approved, his characterization of service may be under OTH conditions. Upon receipt of this notification, Petitioner waived his rights and did not object to the proposed separation.

e. On 3 April 2006, the Petitioner's administrative separation proceedings were determined to be sufficient in law and fact to support the administrative discharge. On 11 April 2006, the separation authority approved and ordered Petitioner to be separated from the Marine Corps by reason of misconduct due to drug abuse, and his characterization of service be under OTH conditions. As such, Petitioner was discharged on 14 April 2006.

f. Petitioner petitioned the Naval Discharge Review Board (NDRB) on 28 August 2008, requesting a discharge characterization upgrade based on the fact that this was his only misconduct in over 31 months of service, and Petitioner feels his punishment was too hard. The NDRB notified the Petitioner on 12 January 2009 that after a thorough review of the available evidence, to include the Petitioner's summary of service, service record, discharge process and evidence submitted by the Petitioner, the Board found the discharge was proper and equitable and that no change was warranted.

g. Petitioner contends that he suffered post-traumatic stress disorder (PTSD) while enlisted and deployed into the combat zone caused a type of behavior that was not a characteristic of himself. Petitioner contends he did not know how to deal with the issue or never believed talking to a professional could help, and stated that he has been diagnosed with PTSD and has found very effective treatment. Additionally, Petitioner provided a written statement that he has thought for a long time about this and he knows that he was a good Marine and truly loved being a Marine who was caught in a bad way and made terrible choices. Further stating at that time, he was a young 19-year-old Marine fresh off a combat tour from Iraq (Combat Action Ribbon Awarded and Meritorious Mast). He was unaware of how his behavior was being caused by PTSD and was a way of coping. He regrets any and all mistakes that he has made and wishes that he could have found the help he needed earlier. Since being discharged he has worked steadily and has continued to maintain a healthy lifestyle and finding the help needed.

h. In connection with Petitioner's assertions that he incurred PTSD during military service, which might have contributed to his separation, the Board requested and reviewed, an Advisory Opinion (AO), enclosure (3), provided by a Ph.D., Licensed Clinical Psychologist who reviewed the Petitioner's naval record and application. The AO stated in pertinent part that "[b]ased on the available evidence, it is my clinical opinion there is post-service evidence from the [Veterans Affairs] of a mental health condition that may be attributed to military service. There is insufficient evidence of a diagnosis of PTSD. There is insufficient evidence to attribute his misconduct to a mental health condition."



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## CONCLUSION

After careful review and consideration of all of the evidence of record, the Board determined that relief is warranted in the form of upgrading Petitioner's characterization of service from under OTH conditions to Honorable with all other entries on his DD Form 214 unchanged.

While the Board noted Petitioner's misconduct and does not condone his actions, it concluded that his mental health condition contributed to his misconduct to merit relief. Specifically, under the guidance provided in references (b) through (e), the Board determined the mitigation evidence offset the severity of the misconduct. In making this finding, the Board concurred with the AO that "there is post-service evidence from the [Veterans Affairs] of a mental health condition that may be attributed to military service" which the Board believed may have contributed to the circumstances surrounding his separation, and especially in light of his combat tour. Accordingly, the Board concluded that a re-characterization of Petitioner's service to Honorable is appropriate and warranted in this case.

## RECOMMENDATION

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record:

That Petitioner be issued a new DD Form 214 reflecting that his service was characterized as "Honorable." All other entries on his DD Form 214 are to remain unchanged.

That Petitioner be issued an Honorable Discharge Certificate.

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

11/9/2023

