



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

█
Docket No. 3385-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
█ USMC

Ref: (a) Title 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
(2) █ 5000 1500 dtd 16 Apr 03
(3) █ Memo 1900 Legal dtd 21 Apr 03
(4) Company First Sergeant Memo 1900 A dtd 25 Apr 03
(5) Department of Veterans Affairs Rating Decision dtd 25 Oct 05
(6) Advisory Opinion, Clinical Psychologist dtd 12 Sep 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 that his naval record be corrected by upgrading his characterization of discharge to Honorable, and changing his narrative reason for separation to disability.

2. The Board, consisting of █, and █, reviewed Petitioner's allegations of error and injustice on 21 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 the naval records, and applicable statutes, regulations, and policies to include references (b) through (e). In addition, the Board considered an advisory opinion from a qualified mental health professional.

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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

b. Petitioner enlisted in the United States Marine Corps and started active duty on 4 June 2002. On 21 February 2003, Petitioner was counseled for a disrespect. On 11 March 2003, he

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was hospitalized at [REDACTED]) after an incident in which he was wrestling with other Marines at the barracks and experienced a dissociative episode – he started kicking, then curled up in a fetal position crying and trembling. Petitioner was diagnosed with Anxiety Disorder Not Otherwise Specified (NOS). During his hospitalization, Petitioner discussed a history of child abuse and depression. Members in Petitioner’s chain of command state that, on 31 March 2003, Petitioner had verbal and physical confrontations with other Marines. On 11 April 2003, Petitioner was hospitalized again due to an overdose of medication; he was diagnosed with adjustment disorder with mixed disturbance of emotion and conduct and Personality Disorder (NOS) and recommended for separation.

c. On 17 April 2003, Commanding Officer, [REDACTED] notified Petitioner of his recommendation to Commanding General (CG), Marine Corps [REDACTED]) that he be discharged with a General (Under Honorable Conditions) by reason of personality disorder. The basis for this recommendation was a letter from the [REDACTED], [REDACTED] recommending Petitioner for administrative discharge due to his diagnosis, enclosure (2), and statements from his platoon commander, enclosure (3) and company first sergeant, enclosure (4). On 5 June 2003, the General Court Martial Convening Authority, CG, Marine Corps Base, [REDACTED] directed Petitioner’s discharge with a general (under honorable conditions) by reason of convenience of the government by reason of personality disorder.

d. On 25 October 2005, the Department of Veterans Affairs (VA) service connected Petitioner for post traumatic stress disorder (PTSD), enclosure (5), at a 30% rating; noting that “this condition, which existed prior to military service, permanently worsened as a result of service.”

e. Petitioner contends his PTSD was aggravated by the March 2003 incident, which he claims was a physical assault by other Marines against him, which contributed to his misconduct.

f. The Board sought an advisory opinion (AO), enclosure (6), from a qualified mental health professional regarding Petitioner’s allegations. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His adjustment, anxiety, and personality disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed. Post-service, the VA has granted service connection for PTSD, and it is possible that symptoms identified as Anxiety or Adjustment Disorder in service have been reconceptualized as PTSD with additional information and the passage of time. As there is considerable overlap of his mental health symptoms, it would be merely speculative to opine whether his disobedience and disrespect was related to characterological traits or other mental health symptoms. However, there is evidence that his separation was related to his mental health concerns.

The AO concluded, “it is my clinical opinion there is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is in-service evidence of

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another mental health condition that may be attributed to military service. There is evidence to attribute the circumstances of his separation to PTSD or another mental health condition.”

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial relief. In keeping with the letter and spirit of references (b) through (e), the Board gave liberal and special consideration to Petitioner’s record of service, and his contentions about traumatic or stressful events he experienced, and their possible adverse impact on his service, to include whether they qualified Petitioner for the military disability benefits he seeks. 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.

Notwithstanding the recommended corrective action below, the Board concurred with the Advisory Opinion that there was ample evidence in Petitioner’s record documenting that Petitioner was properly evaluated by medical professionals who diagnosed Petitioner with personality disorder, a condition, not a disability that would not warrant referral to a Physical Evaluation Board.

Further, the Board found insufficient evidence to support a discharge upgrade. The Board noted that a General (Under Honorable Conditions) discharge is warranted when there are negative aspects of a member’s conduct or performance which outweigh the positive aspects of the member’s record. The Board noted the brevity of Petitioner’s service, that he received a retention warning due to his conduct, and found that the decision to separate Petitioner with a General (Under Honorable Conditions) was in accordance with service regulations. Even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the relief he requested.

Finally, the Board determined Petitioner’s assigned 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.

RECOMMENDATION

In view of the above, the Board directs the following corrective action:

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) reflecting that, for the period ending 11 June 2003, his narrative reason for separation was “Secretarial Authority,” under the authority of “MARCORSEPMAN par 6214,” and with a separation code of “JFF1.”

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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.

10/16/2023

