



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

█
Docket No. 3455-23
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) 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) Medical Advisory Opinion by a Ph.D., Licensed Clinical Psychologist, 7 Sep 23
(3) Petitioner's naval record

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, hereinafter referred to as the Board, requesting that her discharge be upgraded to "Honorable" and that her narrative reason for separation be changed.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 29 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). Additionally, the Board also considered the advisory opinion (AO) furnished by a qualified mental health professional, which was previously provided to Petitioner.

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 service on 16 October 1984.¹

b. In October of 1985, Petitioner was administratively counseled to correct deficiencies with respect to being frequently late to work and absent from her appointed place of duty.

¹ Petitioner's enlistment records indicate that she was married at the time of her entry to service to an estranged spouse whose whereabouts were unknown.

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- c. In November of 1985, Petitioner married a service spouse.
- d. With a projected delivery date of 14 July 1986, Petitioner requested discharge for pregnancy. Her request was favorably forwarded on 3 February 1986.
- e. Petitioner's request for discharge was approved by Commanding General, [REDACTED], for convenience of the government due to pregnancy, with an "Honorable" characterization of service and a discharge date no earlier than 2 June 1986 but no later than 16 June 1986.
- f. From 14 April 1986 through 16 June 1986, Petitioner was identified as being in an "SK" status.²
- g. Petitioner was absent without authority for a 24-hour period from 8-9 September 1986 and was subject to nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice (UCMJ) under Article 86 for her unauthorized absence (UA).
- h. On 8 March 1987, Petitioner was administratively counseled again for frequent UAs, challenging authority, and "manipulating people and situations."
- i. On 11 May 1987, an administrative counseling entry documented a report of a psychological exam which diagnosed Petitioner with a mixed Personality Disorder and depressed, anxious mood. Her medical record noted that her then-present conflicts included suicidal ideations, marital discord, a physically and emotionally abusive husband, and difficulties with concentration. It also documented that her husband had threatened to kill her and that he was a negligent parent to their infant child, rendering it difficult for her to provide adequate care. The medical professional strongly recommended that she be processed for administrative discharge by reason of unsuitability.
- j. Petitioner was subject to two additional NJPs in May and June of 1987: first, for a single violation of Article 86 due to an unauthorized absence from her appointed place of duty at morning physical training at 0630; subsequently, for another violation of Article 86 due to a period of UA from 1 - 18 June 1987 as well as an Article 91 violation for disobeying a lawful order from a staff noncommissioned officer.
- k. On 1 July 1987, a recommendation was made for Petitioner's administrative separation under other than honorable conditions for a pattern of misconduct.³
- l. Petitioner began a period of UA on 2 July 1987. Two weeks later, CG, [REDACTED], denied the recommendation for her administrative separation and directed retention.
- m. Petitioner terminated her period of UA on 19 January 1988 by voluntary surrender and was formally charged with a violation of Article 86 for an unauthorized absence in excess of 180 days.⁴ Her request for separation in lieu of trial was denied and she was retained for trial.

² The Board presumed this period to cover the birth of her dependent child and the necessary hospitalization and convalescence she addressed in her application. It is unclear what reason Petitioner's approved discharge for parenthood was not executed after she completed her post-partum convalescence.

³ The basis of unsuitability for personality disorder was not included in the recommendation.

⁴ Although Petitioner was initially charged, during her absence, with violating Article 85 for desertion, those charges were later revised due to the voluntariness of her return.

n. At her trial before Special Court-Martial (SPCM), Petitioner pled not guilty to the single charged offense of UA under Article 86, however she was found guilty of the offense. Petitioner was sentenced to 50 days of confinement, reduction to E-1, and a Bad Conduct Discharge (BCD) and was subsequently discharged on 26 July 1988.^{5,6}

o. Petitioner, through counsel, contends that she was treated unfairly by her command at a very vulnerable time in her life during which she experienced continuous domestic violence from her spouse⁷ and made countless requests for help. She submits evidence of a Department of Veterans Affairs (VA) determination that, although the BCD would otherwise render her ineligible for healthcare or disability benefits, the incidents reflected by her military service and treatment records were sufficiently compelling to warrant her prolonged absence. She requests that the Board review the attached decision letter for a more detailed explanation of the VA's findings. She also believes her medical circumstances merit consideration of clemency due to her recent (2022) diagnosis of multiple sclerosis as well as suffering renal disease following toxic exposure while at Camp Lejeune, with her medical disability status severe enough to qualify for housebound status.

p. In support of her contentions, Petitioner submitted a personal statement, post-service medical records, VA decisions, her official military personnel file, trial records from her SPCM, post-discharge character evidence of her bachelor's degree in psychology, and a property report.

q. Because Petitioner contends that either post-traumatic stress disorder (PTSD) or a mental health condition contributed to her misconduct and affected the circumstances of her discharge, the Board also requested enclosure (2), the AO, for consideration. The AO advised that there is evidence of domestic violence in her service record and that it is plausible that her in-service misconduct could be attributed to PTSD avoidance symptoms and it is possible that mental health symptoms considered personality disorder during her service have been reconceptualized as PTSD symptoms with the passage of time and improved understanding. The AO provided a clinical opinion that "there is evidence of a mental health condition diagnosed during military service. There is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is evidence to attribute her misconduct to PTSD."

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board found that the totality of circumstances warranted relief. The Board reviewed his application under the guidance provided in references (b) through (e) intended to be covered by this policy.

In this regard, the Board noted Petitioner's misconduct and does not condone her prolonged period of UA, however, the Board concurred with the AO with respect to Petitioner's misconduct being attributable to her mental health contentions. In this regard, the Board found that Petitioner's mental health contentions merited liberal consideration with respect to her discharge and also found that the trauma she suffered due to both her own domestic violence and her concern for the neglect of her child substantially contributed to her misconduct. The Board noted that her service records reflect evidence minimal apparent support from her chain of command, in addition to a complicated series

⁵ The approved sentence suspended confinement.

⁶ The Board applied a presumption of regularity with respect to Petitioner's BCD not being executed until conclusion of appellate review and affirmation of the findings and sentence.

⁷ Petitioner describes, for example, that she went into labor at home but had no means of transportation or communication while her spouse was at work and, therefore, began walking to the hospital when she went into labor.

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of potential administrative discharge recommendations and processing actions which were subsequently withheld, not pursued, or disapproved while she struggled to manage her duties as Marine, her responsibilities as new mother, and her safety and mental health as abused spouse. As a result, the Board concluded that Petitioner's mental health concerns directly contributed to the misconduct which formed the basis of her punitive discharge, which fully outweighed her misconduct when considered conjunction with her traumatic experiences during military service and her post-discharge clemency factors –post-service accomplishments. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief.

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 her "Honorable" discharge on 26 July 1988 was issued under the authority of "MARCORSEPMAN par. 6214" with a narrative reason for separation of "Secretary of the Navy Plenary Authority" and separation code of "JFF1." All other entries currently reflected in Petitioner's DD Form 214 are to remain unchanged.

That Petitioner be issued an Honorable Discharge certificate.

That a copy of this record 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.

11/4/2023

