



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

█  
Docket No. 3824-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, USN,  
█

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 with attachments  
(2) Case summary  
(3) Advisory Opinion of 22 September 2023

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 her discharge be upgraded.

2. The Board, consisting of █, and █, reviewed Petitioner's allegations of error and injustice on 6 November 2023, and, pursuant to its regulations, determined 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 his naval service records, and 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. Although Petitioner was provided an opportunity to respond to the AO, she chose not to do so.

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.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,  
[REDACTED]

c. Petitioner enlisted in the Navy and began a period of active duty on 10 August 1988. She subsequently completed two periods of continuous Honorable service, reenlisting for a third and final period of service on 11 August 2000. During this enlistment, on 23 August 2002, she received nonjudicial punishment (NJP) for a period of unauthorized absence (UA) and was awarded reduction in rank (RIR) to E-4, forfeiture of \$1,095.00 for two months, and extra duties for 45 days. Her RIR and forfeitures were suspended for six months. She was also issued administrative remarks retaining her in the Navy, documenting her infraction, and advising her that further violations of the Uniform Code of Military Justice (UCMJ) could result in an administrative separation under Other Than Honorable (OTH) conditions. On 30 September 2002 and 4 October 2002, she received two additional NJPs for another period of UA and for wrongful use, possession, etc., of controlled substances (THC). A psychiatric evaluation session was conducted but not completed and an initial follow-up appointment was scheduled but Petitioner failed to report for the appointment. She was consequently notified of her pending administrative processing by reason of misconduct due to drug abuse and pattern of misconduct (POM), at which time she waived all of her rights. On 7 October 2002, she refused treatment. On 25 October 2002, she was discharged with an OTH by reason of misconduct due to drug abuse. Upon her discharge, she was issued a DD Form 214 that erroneously listed her active duty start date as 10 September 1988 vice 10 August 1988. Further, the DD Form 214 did not document her previous period of continuous Honorable service from 10 August 1988 to 10 August 2000.

d. Petitioner contends: (1) she is currently suffering from PTSD, other mental health concerns, and needs medical help and benefits, (2) she served the U.S. Navy with her life for almost 15 years with exceptional service, (3) she took time away from her family to serve her country with honor, (4) she was a spouse-colocation with six children whose husband was deployed at the time, and (5) she apologizes for her negligence and lack of communication in requesting therapy.

e. For purposes of clemency consideration, the Board noted Petitioner did not provide advocacy letters or supporting documentation describing post-service accomplishments.

f. In connection with Petitioner's assertions that she incurred PTSD and other mental health concerns during military service, which might have mitigated the circumstances of her separation, the Board requested and reviewed the AO. The AO stated in pertinent part:

There is no evidence that she was diagnosed with a mental health condition in military service. While there is some evidence of behavioral change in the record, there is insufficient evidence regarding circumstances to attribute this behavioral change to a mental health condition. She has provided no medical evidence in support of her claims. Unfortunately, her personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with her misconduct. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her misconduct) may aid in rendering an alternate opinion.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,  
[REDACTED]

The AO concluded, "it is my clinical opinion there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute her misconduct to PTSD or a mental health condition.

**CONCLUSION:**

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief. Specifically, as previously noted, the Board determined block 12a of Petitioner's DD Form 214 erroneously lists her active duty start date as 10 September 1988 vice her actual start date of 10 August 1988. The Board further noted her DD Form 214 is missing her previous period of continuous Honorable service. Therefore, the Board determined these errors require correction.

With regard to Petitioner's request that her characterization of service be upgraded, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Hagel, Kurta, and Wilkie Memos. These included, but were not limited to, Petitioner's desire for a discharge upgrade and the previously discussed contentions.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that her misconduct, as evidenced by her NJPs, outweighed any mitigating factors presented. In making this finding, the Board considered the seriousness of her misconduct and the fact that it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Additionally, the Board concurred with the AO that there is insufficient evidence to attribute her misconduct to PTSD or a mental health condition. As explained in the AO, Petitioner provided no medical evidence in support of her claims and her personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with her misconduct. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. 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 she requested or granting the requested relief as a matter of clemency or equity.

**RECOMMENDATION:**

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

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215) indicating her active duty start date as 10 August 1988 in block 12a.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,  
[REDACTED]

That block 12 in its entirety be recalculated based on the change to her corrected active duty start date.

That Petitioner's continuous Honorable service for the period of 10 August 1988 through 10 August 2000 be added to block 18.

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.

12/3/2023

