



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

█
Docket No. 4605-23
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) USD Memo of 25 Aug 17 (Kurta Memo)
(c) Official Military Personnel File (OMPF)

Encl: (1) DD Form 149 w/attachments
(2) Advisory opinion of 23 Oct 23
(3) Response to advisory opinion of 1 Dec 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 awarding him a service disability retirement due to anxiety disorder at 30% and that all references to a personality disorder be removed from his service records.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 18 January 2024, and, pursuant to its regulations, determined that the corrective action indicated below should be taken. 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, and applicable statutes, regulations, and policies, to include the reference (b) 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). The Board also considered the enclosure (2) advisory opinion (AO) of a qualified medical professional as well as the enclosure (3) response to the AO by Petitioner.

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. According to reference (c), Petitioner enlisted in the Navy and commenced a period of active duty on 22 June 2005. According to Petitioner, he suffered a traumatic event in early 2016, which triggered a service related anxiety disorder. Petitioner sought mental health treatment and was diagnosed with Narcissistic Personality Disorder (NPD). Thus, on 17 April 2017, Petitioner was issued a Page 13 formal counseling, which explained that he was diagnosed with Narcissistic Personal Disorder (NPD), that his present medical condition had not been

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED], USN,
XXX-XX-[REDACTED]

considered a physical disability and that it may be a disqualifying factor in determining your suitability for his further naval service.

c. On 10 March 2017, commanding officer, [REDACTED], [REDACTED], prepared a letter for Petitioner's command describing Petitioner's condition, as follows:

1. The subject named member was voluntarily evaluated at the [REDACTED] and [REDACTED] Mental Health Clinic over 15 occasions between the dates of 24 October 2016 and 10 March 2017. These evaluations were conducted by Dr. [REDACTED], Staff Psychologist, and [REDACTED], Psychiatric Mental Health Nurse Practitioner. Findings were as follows:
 - a. Impressions: Narcissistic Personality Disorder (60.81)
 - b. Recommendation(s): The member is not considered to be mentally ill (no medically board eligible condition), but does manifest a long-standing disorder of character and behavior, which is of such severity as to render this individual unsuitable for continued military service. This diagnosis addresses post-traumatic stress disorder (PTSD) and other mental illness comorbidity, for which the member is found to be negative. The member is competent. Short-term psychiatric treatment for this condition is of limited benefit, and long-term treatment is not available within the military health system. The member is deemed suitable to return to duty for immediate processing for administrative separation in accordance with reference (a).
2. The aforementioned diagnosis and treatment recommendations were discussed with and understood by the member.
3. The aforementioned diagnosis and treatment recommendations were reviewed and agreed upon by [REDACTED], PhD, LT, MSC, USN and [REDACTED], PMHNP-BC, LCDR, NC, USN, in accordance with reference (b).

d. On 15 May 2017, Petitioner was notified of the initiation of administrative separation processing on the basis of convenience of the government due to personality disorder as evidenced by NPD. Thereafter Petitioner was discharged on 17 July 2017. Upon his discharge, he was issued a DD Form 214 that listed his narrative reason for separation as "Personality Disorder." He was also issued a corresponding separation authority, separation code, and reentry code.

e. In support of his request for a service disability retirement, Petitioner contends that he was incorrectly diagnosed with a personality disorder while he was in service. He asserts that his diagnosis was patently incorrect and nothing in his service record supports it. Petitioner cites two psychological evaluations, which he contends confirmed that the Navy psychologist's diagnosis of Petitioner was flawed, relied on factors that were unrelated to NPD, ignored evidence that refuted an NPD diagnosis, and diagnosed him with NPD even though his symptoms did not meet the minimum clinical criteria for an NPD diagnosis. Further, according

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED], USN,
XXX-XX-[REDACTED]

to Petitioner, it was implausible to conclude that Petitioner served with distinction for twelve years without incident, all while somehow concealing the immutable characteristics of NPD. According to Petitioner, the record and expert psychological evaluations demonstrate that he instead suffered from a service-related anxiety disorder in the wake of a traumatic failed mission in 2016. Finally, Petitioner argues that, in light of the foregoing, all references to personality disorder should be removed from his record.

f. In order to assist it in reviewing Petitioner's request, the Board obtained the enclosure (2) AO. According to the AO, which was considered unfavorable to Petitioner's request, in part:

4. Petitioner contended he was erroneously diagnosed with personality disorder during service, and that he was actually suffering from a trauma-related anxiety disorder following a 2016 failed classified mission. He described a junior sailor erroneously turned off a critical cooling component to the nuclear reactor for the submarine, which threatened the lives of all hands. Although the error was identified and corrected without catastrophe, the mission was terminated and approximately two-thirds of his chain of command were replaced, resulting in increased responsibility and pressure for the Petitioner, and contributing to mental health concerns, which ultimately were erroneously diagnosed as personality disorder.
 - a. Petitioner submitted a May 2018 Department of Veterans Affairs (VA) Disability Benefits Questionnaire, describing evaluation for the diagnosis of Major Depressive Disorder, Recurrent, Moderate to Severe. The provider expressed the opinion that the NPD "diagnosis is a gross error as evidenced by claimant's DD214, which shows that he served 12 years honorably in a highly demanding rate." Petitioner also provided disability evaluations for other medical concerns.
 - b. He provided evidence of VA service connection for Adjustment disorder with mixed anxiety and depressed mood, effective July 2017.
 - c. He submitted the report of a two-session mental health evaluation conducted in April 2022 by a civilian postdoctoral fellow and a supervising civilian psychologist. Personality testing indicated the results were "'probably valid,' though he displays signs of defensiveness or over-conventional and conforming." The evaluation concluded that the Petitioner either currently meets, or historically during military service met, criteria for diagnoses of Major Depressive Disorder, Adjustment Disorder with Mixed Anxiety and Depressed Mood (by history), and Anxiety Not Otherwise Specified (NOS), all of which were attributed to military service.
 - d. The April 2022 report expressed the opinion that "the majority of his service record is inconsistent with NPD," citing performance evaluations and earned medals. The report noted that personality testing during the evaluation revealed the Petitioner "did not have any elevations that would identify anything as" congruent with a personality disorder diagnosis. The report

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED], USN,
XXX-XX-[REDACTED]

stated “no current personality disorder is highly consistent with the lack of personality disorder symptoms earlier,” and repeatedly indicated that the in-service NPD diagnosis was in error, because the Petitioner did not meet minimal symptom criteria.

5. During military service, the Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated over multiple months and providers, including during an inpatient hospitalization. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose to the mental health clinicians, and the psychological evaluations performed. His diagnosis was conservatively applied, after several months of treatment, and agreed upon by multiple providers. There is clear evidence in the record that the diagnosis was not impulsively assigned but was deliberately considered.

g. Petitioner was provided a copy of the AO, and, he provided a 1 December 2023 response in rebuttal to the AO, in which he disagreed with its conclusions. The Board considered the entirety of the Petitioner’s response, which included his arguments as follows:

The Opinion ignores the eight years of glowing reviews that [Petitioner] received from Navy superiors between 2008 and 2016. While the Opinion briefly mentions these reviews, it fails to grapple with the fact that they contradict [his]NPD diagnosis. See Opinion at ¶ 2(a). The Opinion cites five symptoms of NPD that [Petitioner] purportedly exhibited: “grandiose sense of self-importance, believes he should only associate with high-status people, sense of entitlement, interpersonally exploitive, [and] shows arrogant attitudes.” Id. at ¶ 5(a). However, it never explains how [Petitioner] could simultaneously exhibit these personality traits while also having demonstrated exemplary leadership and teamwork qualities for years prior to the Navy’s inaccurate NPD diagnosis. For example, supervisors described [Petitioner] as having “superb military bearing and professionalism,” a “positive attitude,” “new ideas and vigor that motivates Sailors to want to succeed;” as being a “visionary personnel manager,” “a valuable supervisor;” and as having “[e]xpertly trained both officer[s] and enlisted Sailors.” Application Exs. B at 2, C at 2, D at 2, E at 2. [Petitioner] also received Navy awards for “achievement” and “good conduct.” Id. at Ex. F. Given the nature of the disorder, if [Petitioner] had NPD, he would have exhibited symptoms from the time he was an adolescent throughout the period of his service. See Int’l Classification of Diseases, ICD-9-CM; Application Ex. L at 10. Instead, his performance reviews repeatedly show qualities that are entirely inconsistent with the symptoms of NPD. The Opinion makes no effort whatsoever to explain this discrepancy.

* * *

The Opinion does not meaningfully engage with evidence contrary to its conclusion, while giving undue weight to evidence that supports it. This violates the duty to consider all relevant evidence, weigh the substantial evidence in the

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED], USN,
XXX-XX-[REDACTED]

case, and give liberal consideration to [Petitioner's] application. It also completely misunderstands the consistent and immutable nature of personality disorders.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief. Specifically, the Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior 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.

However, with respect to Petitioner's request for a service disability retirement, the Board reviewed Petitioner's request and the material that he provided in support, and disagreed with his rationale for relief. In keeping with the letter and spirit of the Kurta Memo, the Board gave liberal and special consideration to his record of service, and his contentions about any traumatic or stressful events you experienced, and their possible adverse impact on your service. In reaching its decision, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing Petitioner's record, the Board concluded the preponderance of the evidence does not support a finding that he met the criteria for unfitness as defined within the disability evaluation system at the time of your discharge. At the outset, the Board concurred with the findings of the AO, finding that it sufficiently considered the relevant facts and reached a reasonable conclusion. In particular, the Board found the AO's conclusory paragraph to be particularly apt, in which the AO summarized that the Petitioner was "appropriately referred for psychological evaluation during his enlistment and properly evaluated over multiple months and providers, including during an inpatient hospitalization." In assessing Petitioner's personality diagnosis, the AO explained that it was "based on observed behaviors and performance during his period of service, the information he chose to disclose to the mental health clinicians, and the psychological evaluations performed." In fact, as noted by the AO, Petitioner's diagnosis was "conservatively applied, after several months of treatment, and agreed upon by multiple providers." The Board agreed that, upon its review of the medical documentation, the medical documentation from the medical professionals that reviewed Petitioner, over several months during the relevant time of his mental health symptoms, shows that "is clear evidence in the record that the diagnosis was not impulsively assigned but was deliberately considered." Thus, after concluding Petitioner was appropriately diagnosed with a personality disorder, the Board determined his condition was not a qualifying disability condition warranting a referral to the Disability Evaluation System.

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED], USN,
XXX-XX-[REDACTED]

As noted, the Board applied liberal consideration in its review of Petitioner's requests, in accordance with the Kurta Memo, and the application of such liberal consideration did not change the Board's view. The Board reasoned that Petitioner was, in fact, diagnosed with a mental health condition during his service. In their diagnosis, the evaluating provider specifically explained that it addressed PTSD "and other mental illness co-morbidity, for which the member is found to be negative." Nevertheless, the Board assumed, arguendo, that Petitioner had indications of PTSD while in service. The Board next considered whether that mental health condition should mitigate Petitioner's discharge. Upon review, the Board determined that, inasmuch as Petitioner received an Honorable characterization of service, the only mitigation available would be to change Petitioner's narrative reason for separation, separation authority, separation code, and reentry code. As previously discussed, the Board already voted in favor of modifying Petitioner's DD Form 214 to remove any reference to his personality disorder. In making this finding, the Board considered Petitioner's response in rebuttal to the AO, and found it to be unpersuasive. In reviewing the rebuttal, the Board observed that it did not contain any additional medical documentation.

To the extent Petitioner relied upon findings by the Department of Veterans' Affairs (VA) in support of his request, the Board observed that the VA does not make determination as to fitness for service as contemplated within the service disability evaluation system. Rather, eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. Thus, in light of the foregoing and its application of liberal consideration, the Board denied the Petitioner's request for a disability retirement.

To the extent Petitioner's request to remove the diagnosis of personality disorder from all of his naval records in addition to his DD Form 214, the Board found no error or injustice in the Department of the Navy maintaining accurate records, which it is required to keep, which were prepared by treating medical providers who had an independent obligation to maintain accurate notes at or near the time of Petitioner's medical treatment. Thus, the Board denied this portion of Petitioner's request. Finally, the Board determined Petitioner's assigned reentry code remains appropriate in light of his diagnosis. Ultimately, the Board determined that 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 or Discharge from Active Duty (DD Form 214) reflecting his separation as "MILPERSMAN 1910-164," the separation code as "JFF," and the narrative reason for separation as "Secretarial Authority."

That no other changes be made to Petitioner's 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.

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED], USN,
XXX-XX-[REDACTED]

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.

2/2/2024

