



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

██████████  
Docket No. 4946-23

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552  
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo) (Hagel Memo)  
(c) PDUUSD Memo 24 Feb 16 (Carson Memo)  
(d) USD Memo of 25 August 2017 (Kurta Memo)  
(e) USECDEF Memo of 25 July 2018 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments  
(2) Case summary

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 to upgrade his characterization of service and to make other conforming changes to his DD Form 214 following his involuntary discharge for a personality disorder.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 5 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 references (b) through (e). Additionally, the Board also considered the advisory opinion (AO) furnished by qualified mental health provider. Although Petitioner was provided an opportunity to respond to the AO, he 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 limitations was waived in accordance with reference (d).

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

c. The Petitioner enlisted in the U.S. Navy and began a period of active duty service on 5 March 1979. Petitioner's pre-enlistment physical examination, on 16 February 1979, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

d. On 20 March 1980, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA). Petitioner did not appeal his NJP.

e. On 24 March 1980, Petitioner underwent a psychiatric evaluation. Petitioner's neurologic examination was normal, but the Medical Officer (MO) recommended Petitioner's administrative separation based on his immature personality and non-adaptability to military service.

f. On 27 March 1980, Petitioner received NJP for UA, and for failing to obey a lawful general regulation. Petitioner did not appeal his second NJP.

g. On 9 May 1980, Petitioner's separation physical examination noted no psychiatric or neurologic conditions or symptoms. On 22 May 1980, Petitioner's command initiated administrative separation proceedings by reason of unsuitability on the basis of his diagnosed personality disorder. Petitioner waived his rights to consult with counsel and submit a statement on his own behalf. The lowest eligible discharge characterization Petitioner could have received was General (Under Honorable Conditions) (GEN).

h. In the interim, on 20 July 1980, Petitioner received NJP for failing to obey a lawful order. Petitioner did not appeal his third and final NJP. Ultimately, on 30 July 1980, Petitioner was discharged from the Navy with a GEN discharge characterization and assigned an RE-4 reenry code. The Board specifically noted on Petitioner's DD Form 214 that the narrative reason for separation was "Unsuitability - Personality Disorder."

i. On 17 March 2019, the VA granted Petitioner a service-connection for migraine headaches and chronic adjustment disorder with a 70% disability.

j. Based on his available service records, Petitioner's overall conduct trait average assigned on his periodic performance evaluations during his enlistment was approximately 2.40. Navy regulations in place at the time of his discharge recommended a minimum trait average of 3.0 (out of a possible 5.0) in conduct (proper military behavior), to be eligible and considered for a fully Honorable characterization of service.

k. As part of the Board review process, the BCNR Physician Advisor who is a licensed clinical psychologist (Ph.D.), reviewed Petitioner's contentions and the available records and issued an AO dated 7 November 2023. The Ph.D. stated in pertinent part:

During military service, the Petitioner was evaluated by psychiatry and other medical providers on multiple occasions. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by

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

the mental health clinicians. There is insufficient evidence of error in the in-service diagnosis. Post-service, the VA has granted service connection for a mental health condition. The Petitioner has also claimed that he is currently in evaluation for PTSD, although he has provided no medical evidence of the diagnosis. Unfortunately, his in-service misconduct appears to be consistent with characterological features, rather than evidence of PTSD or another mental health condition, particularly as it is difficult to determine how misuse of a government vehicle could be considered a symptom of PTSD. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The Ph.D. concluded, "it is my clinical opinion there is post-service evidence from the VA 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 PTSD or another mental health condition, other than personality disorder."

#### CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief.

In keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, 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.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an Honorable discharge characterization or any other requested relief. The Board gave liberal and special consideration to Petitioner's record of service, and his contentions about any traumatic or stressful events he experienced and their possible adverse impact on his service. However, the Board concluded that there was no nexus between any mental health conditions and/or related symptoms and Petitioner's misconduct, and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed a basis of his discharge. As a result, even under the liberal consideration standard the Board concluded that Petitioner's misconduct was not due to mental health-related conditions or symptoms. Even if the Board assumed that Petitioner's misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of his misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board also determined that the evidence of record did not demonstrate that Petitioner was not mentally responsible for his conduct or that he should otherwise not be held accountable for his actions.

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

The Board noted that personality disorders are characterized by a longstanding pattern of unhealthy behaviors, dysfunctional relationships, and maladaptive thinking patterns. They are not conditions considered unfitting or disabling, but render service members unsuitable for military service and consideration for administrative separation. Accordingly, the Board concluded that Petitioner's diagnosed personality disorder was a non-disabling disorder of character and behavior, and that it should not be considered a mitigating factor in his misconduct because it did not impair his ability to be accountable for his actions or behaviors. The Board also determined the record clearly reflected that Petitioner's misconduct was intentional and demonstrated he was unfit for further service.

Additionally, the Board determined that an Honorable discharge was appropriate only if the Sailor's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that significant negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record even under the liberal consideration standards for mental health conditions, and that even though flawless service is not required for an honorable discharge, in this case only a GEN discharge characterization was appropriate. Even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board still concluded that insufficient evidence of an error or injustice exists to warrant upgrading Petitioner's characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, the Board concluded that Petitioner only merits a GEN characterization of service and no higher.

The Board also did not find a material error or injustice with the Petitioner's reentry code. The Board concluded the Petitioner was assigned the correct reentry code based on the totality of his circumstances, and that such reentry code was proper and in compliance with all Department of the Navy directives and policy at the time of his discharge.

#### RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

That Petitioner's narrative reason for separation should be changed to "Secretarial Authority," the separation authority be changed to "MILPERSMAN 1910-164," and the separation code be changed to "JFF."

Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty.

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.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [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 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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

1/17/2024

[REDACTED]