



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

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Docket No. 5418-23
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,
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Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo) (Hagel Memo)
(c) PDUSD 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 make certain conforming and administrative changes to his DD Form 214 following his discharge for a personality disorder.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 26 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 and Petitioner's response to the AO.

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.

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c. The Petitioner originally enlisted in the U.S. Navy and began a period of active service on 26 July 1988. Petitioner's pre-enlistment physical examination, on 15 September 1987, and his self-reported medical history both noted no neurologic or psychiatric conditions or symptoms.

d. On 27 September 1991, Petitioner underwent a mental health evaluation at Naval Hospital, [REDACTED], [REDACTED]. The attending psychologist (AP) diagnosed Petitioner with a personality disorder with narcissistic, histrionic, and passive aggressive features. The AP determined that Petitioner was not considered mentally ill, he did not possess a severe mental disease or defect for purposes of RCM 706 examinations, and was considered competent. However, the AP concluded that Petitioner manifested a longstanding disorder of character and behavior of such severity as to interfere with him adequately serving in the Navy.

e. On 6 November 1991, Petitioner's command initiated administrative separation proceedings by reason of the convenience of the government on the basis of his diagnosed personality disorder. Petitioner waived his rights to consult with counsel, and did not object to his separation. Ultimately, on 7 February 1992, Petitioner was discharged from the Navy for a personality disorder with an Honorable (HON) discharge characterization and assigned an RE-3G reentry code. On 13 April 1999, this Board denied Petitioner's initial request for relief.

f. In short, Petitioner contended, in part, the Navy erred for separating him based on a misdiagnosed personality disorder. As part of the review process, the BCNR Physician Advisors, one of whom is a licensed clinical psychologist, and the other that is a medical doctor and a Fellow of the American Psychiatric Association, reviewed Petitioner's contentions and the available records, and issued a joint AO on 1 December 2023. The AO stated in pertinent part:

There is evidence that he was diagnosed with a personality disorder during military service. There is no evidence of a diagnosis of PTSD. Post-service, the VA has granted service connection for TBI and a mental health condition. Although the VA evaluation stated the Petitioner did not meet diagnostic criteria for a personality disorder, behavior described following the evaluation could be considered consistent with symptoms of a character disorder. There is no evidence that the Petitioner's TBI symptoms were related to his in-service personality disorder diagnosis. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation from service) may aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is post-service evidence from the VA of TBI and another mental health condition that may be attributed to military service. There is insufficient evidence of error in his in-service diagnosis or to attribute the circumstances of his separation from service to PTSD, TBI or another mental health condition, other than personality disorder.

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Following a review of Petitioner's AO rebuttal submission, the AO was revised to state, "[t]here is post-service evidence from a civilian mental health counselor of a diagnosis of PTSD that may be attributed to military service."

CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concludes that 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.

Notwithstanding the corrective action recommended below, the Board did not find a material error or injustice with the Petitioner's administrative separation based on his diagnosed personality disorder or the assigned RE-3G reentry code. In making its finding, the Board substantially concurred with AO that there is insufficient evidence of error in his in-service personality disorder diagnosis or to attribute the circumstances of his separation from service to PTSD, TBI or another mental health condition, other than personality disorder. Further, the Board noted that the RE-3G reentry code directly corresponds to: "condition (not physical disability) interfering with the performance of duty," and is the appropriate designation given the totality of the circumstances in his case. The Board further noted that the RE-3G reentry code may not prohibit reenlistment, but requires that a waiver be obtained, and that recruiting personnel are responsible for determining whether Petitioner meets the standards for reenlistment and whether or not a request for a waiver of the reentry code is feasible. Accordingly, 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 Navy directives and policy at the time of his discharge. Ultimately, the Board determined that any injustice in his record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

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

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

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.

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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 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.

2/1/2024

[REDACTED]