



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

█  
Docket No. 2816-23  
Ref: Signature Date

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

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

- █ § 1552
- (b) SECDEF Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder," of 3 September 2014
  - (c) USD Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," of 25 August 2017
  - (d) USD Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018 (Wilkie Memo)
  - (e) Official Military Personnel Folder (OMPF)
  - (f) Manual of the Medical Department (MANMED) NAVMED P-117

- Encl: (1) DD Form 149 w/attachments  
(2) Advisory Opinion, dtd 15 April 2024  
(3) Response to Advisory Opinion, dtd 13 May 2024

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), Petitioner requests to be granted a service disability retirement due to post-traumatic stress disorder (PTSD) and associated DD Form 214 changes to reflect such. Alternatively, Petitioner requests to have his Personality Discharge Narrative Reason for Discharge changed to Secretarial Authority and separation program designator changed to JFF.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 23 May 2024, 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 Petitioner's application, enclosure (1), 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 (d), namely, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), the 25 August 2017 guidance from the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for

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

Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo), hereinafter collectively referred to as the Clarifying Guidance). Additionally, the Board also considered the enclosure (2), an advisory opinion (AO) furnished by qualified medical professional, as well as enclosure (3), 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. Although Petitioner's application was not filed in a timely manner, the Board waived the statute of limitations and considered the case on its merits pursuant to the provisions of reference (c).

b. Petitioner enlisted in the Navy and commenced a period of active duty on 10 July 2002. As set forth in the enclosure (2), beginning in 2005, Petitioner presented to a flight surgeon with complaints of experiencing tics, such as a blinking left eye and gargling in throat, which he reported started at age 12, but which presented with increasing frequency over the past several years. Petitioner continued to be evaluated by several different providers over the next several months. On 10 May 2006, Petitioner was evaluated by a civilian psychiatrist, who provided Petitioner a letter to provide to the Navy, in which he set forth his diagnoses of Petitioner, which included Tourette's syndrome, Major Depressive Disorder, Body Dysmorphic Disorder, Alcohol Use Disorder, and Obsessive-Compulsive Disorder. The civilian psychologist stated that it would be advisable that Petitioner be discharged from the Navy, and that it would be in the Navy's best interest. On 31 May 2006, the Group Surgeon for Petitioner's command wrote to Petitioner's commanding officer and explained that Petitioner had been diagnosed with a personality disorder as well as a host of co-morbid conditions, and that Petitioner had communicated and demonstrated a strong desire for separation from the Navy. According to the Group Surgeon, he discussed Petitioner's case at length with his chain of command and he strongly recommended Petitioner be discharged due to "Convenience of the Government due to a Personality Disorder."

c. On 8 June 2006, Petitioner was notified of the initiation of administrative separation processing and his rights in connection therewith. On 20 June 2006, Petitioner was reviewed by a medical professional for a pre-separation medication examination, a purpose of which was to ensure a service member had not developed any medical conditions while in receipt of base pay that might constitute a disability that should be processed by the Physical Evaluation Board (PEB). Reference (f), Section 15-20. The medical professional determined Petitioner was qualified for separation. On 7 July 2006, Petitioner was discharged with an Honorable characterization of service due to Convenience of the Government – Personality Disorder.

d. In his petition, Petitioner requests to be granted a service disability retirement due to PTSD and for associated DD Form 214 changes to reflect such. In the alternative, Petitioner requests to have his Personality Discharge Narrative Reason for Discharge changed to Secretarial Authority and his separation program designator changed to JFF. In support of his petition, Petitioner asserts that there were many errors of fact, law, procedure, and discretion associated with his discharge at the time of issuance, and as a result, his rights were substantially

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

prejudiced. He argues that had he been provided the proper steps pursuant to MILPERSMAN Article 1910-122, he would not have been discharged with the narrative reason of “personality disorder” and he would have been granted a medical retirement. Petitioner further argued that current Department of Defense policies provide substantial enhancement to the rights afforded to veterans being discharged for a mental disorder that did not exist at the time of his discharge, and had these new protections been in effect at the time of his discharge, it is unlikely that he would have been discharged with the stigmatizing narrative reason of personality disorder.

e. In order to assist the Board in reaching a decision, it obtained the enclosure (2), which was considered unfavorable to Petitioner. The AO provided a relatively comprehensive background and summary of Petitioner’s medical treatment and diagnosis while he was on active duty, and it also reviewed and considered the entirety of Petitioner’s submissions and arguments. According to the AO, the evidence supported Petitioner’s contention that he showed possible prodromal symptoms of PTSD, while he was on active duty, as a result of his combat deployment to Iraq, and that this condition progressed to diagnosable PTSD by 2017. However, according to the AO, this possible prodromal manifestation of PTSD, as well as other diagnosed mental health conditions, did not rise to the level of rendering Petitioner unfit for duty during his military service. Rather, according to the AO:

The preponderance of available evidence did not support Petitioner’s contention that his in-service personality disorder diagnosis was in error. The in-service diagnoses were based on the history provided by Petitioner, as well as evaluations and observations over time by licensed and certified mental health providers at the time of his military service. Post- discharge evaluations also resulted in a personality disorder diagnosis, as well as confirming other in- service mental health diagnoses. In weighing the available clinical evidence, to include expert psychological opinion against the diagnosis of personality disorder, I ascribed greater weight to the evaluations and diagnoses rendered contemporary to Petitioner’s military service over the expert opinion rendered temporally distant to his military service. After review of all available objective clinical and non-clinical evidence, in my medical opinion, at the time of discharge from military service, Petitioner did not suffer from any medical or mental health conditions that prevented him from reasonably performing the is office, grade, rank, MOS, or rating which would have rendered him unfit for continued service.

f. The AO concluded, “in my medical opinion, the preponderance of objective clinical evidence provides insufficient support for Petitioner’s contention that at the time of his discharge he was unfit for continued military service and should have been medically retired, or that his personality disorder diagnosis was made in error.”

g. The Board provided a copy of the AO to Petitioner for his response, which he provided by letter dated 13 May 2024. Enclosure (3). In his response in rebuttal to the AO, Petitioner argued that the diagnosis of and discharge for a personality disorder was erroneous, and the AO failed to provide an adequate critical analysis of this issue. According to the AO, a critical analysis of the Navy’s personality disorder-based discharge and diagnosis requires, at minimum, consideration of the Diagnostic and Statistical Manual of Mental Disorders (DSM) requirements, the Navy’s

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

procedures, and the Department of Defense's Hagel/Kurta memos; analysis the AO failed to provide. Further, according to Petitioner, the Hagel and Kurta memos apply to Petitioner's application and they compel a decision in his favor, as explained in his written brief in support of his petition. Ultimately, according to Petitioner, he was unfit for duty at the time of his discharge due to PTSD, and Petitioner highlighted two medical opinions by a physician, and provided a supplemental medical report by a physician, in which his physician provided a comprehensive review and a studied opinion that the personality diagnoses were in error and that Petitioner in fact suffered from debilitating PTSD at the time of his discharge. In his response in rebuttal Petitioner also provided a statement, in which he reported he did not disclose PTSD symptoms to his mental health providers in-service due his training to be "stoic" and initial post-discharge providers for fear of compromising his employability. He also reiterated the traumatic stressors he experienced in-service and that his command detailed him to less demanding jobs due to their awareness of his "severe mental and emotional hardships" and contended this was evidence of his unfitness for duty.

## CONCLUSION

In keeping with the letter and spirit of the Clarifying Guidance, the Board gave liberal and special consideration to Petitioner's record of service, and his contentions about any traumatic or stressful events Petitioner experienced, and their possible adverse impact on his service. In its review of the entirety of Petitioner's materials as described above, the Board concluded that the preponderance of the evidence does not support a medical retirement and denied his request for one.

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 the Petitioner's record, the Board concluded the preponderance of the evidence does not support a finding that he met any of the criteria for unfitness at the time of his discharge. At the outset, the Board concurred with the AO's opinion. The Board found that the AO provided a comprehensive background of Petitioner's medical symptoms, treatments, and evaluations while he was on active duty. The Board also credited the AO for its careful analysis of the relevant medical factors, and it concluded that there is no basis for granting the Petitioner a medical retirement. Indeed, as noted by the AO, the Board found no evidence contemporaneous to Petitioner's service that tended to support the applicability of a basis for awarding a medical retirement. In its review of Petitioner's response to the AO, including Petitioner's statement included therewith, the Board observed that, while the rebuttal and enclosed new evidence provided a comprehensive and studied rebuttal, it was insufficient to rebut the evidence that demonstrated that, at the time of Petitioner's discharge from service, he remained capable of

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

adequately discharging his duties and responsibilities. On this point, the Board observed Petitioner was in active mental health treatment for several mental health conditions, to include possible undisclosed prodromal symptoms of PTSD, whose clinical manifestation did not rise to the level of unfitness for service or referral to the Disability Evaluation System. Further, the Board observed that Petitioner was, in fact, cleared from separation from active duty by a medical professional.

In addition, even with applying liberal consideration and considering Petitioner suffered a mental health condition while he was on active duty, there is no indication that any such presumed mental health condition, such as PTSD, resulted in his unfitness. The Board noted that Sailors regularly serve on active duty with diagnoses of PTSD and other mental health conditions, and the diagnosis of such conditions does not necessarily result in a finding of unfitness. In Petitioner's case, the available medical documentation contemporaneous to Petitioner's service revealed that proximate diagnosis for his discharge appropriately resulted in his personality disorder discharge.

To the extent Petitioner asserted, or relied upon, his post-service ratings by the VA, the fact that the VA may have rated him for disability conditions that it determined were service connected to his time in the service did not persuade the Board these conditions were unfitting at the time of his discharge from the Navy because 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, including the application of the Clarifying Guidance, the Board denied the Petitioner's request for a disability retirement as well as back pay that he requested.

Finally, regarding Petitioner's alternative request to change his narrative reason of separation from personality disorder to Secretarial Authority, 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 and/or adjustment 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.

#### RECOMMENDATION

In view of the above, the Board recommends the following corrective action.

Petitioner shall be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 7 July 2006, reflecting that his narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," the separation authority was "MILPERSMAN 1910-164," and the reentry code was "RE-1J."

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

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.

6/13/2024

