



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

[REDACTED]  
Docket No. 3681-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]  
XXX XX [REDACTED] USMC

Ref: (a) Title 10 U.S.C. § 1552  
(b) SECDEF Memo of 3 Sep 14 (Hagel Memo)  
(c) USD Memo of 25 Aug 17 (Kurta Memo)  
(d) USD Memo of 25 Jul 18 (Wilkie Memo)  
(e) Petitioner's Official Military Personnel File

Encl: (1) DD Form 149 w/attachments  
(2) Advisory Opinion by M.D., Physician Advisor, 24 Apr 24

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) requesting that his narrative reason for separation be changed to a service disability retirement.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 6 June 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 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) advisory opinion (AO) furnished by a qualified medical professional, a copy of which was provided to Petitioner and to which he did not provide a response.

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

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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. A review of Petitioner's reference (e) reveals that Petitioner enlisted in the Marine Corps and commenced active duty on 3 November 2004. On 4 March 2005, Petitioner began a period of unauthorized absence (UA). On 1 April 2005, Petitioner was apprehended while in a UA status and returned to control of naval authorities. On 6 April 2005, Petitioner received nonjudicial punishment for UA and awarded forfeiture of one-half month's pay for two months and sixty days restriction. On 11 May 2005, Petitioner was notified of the initiation of administrative separation processing and his rights in connection therewith due to a diagnosed personality disorder. This condition was expressly determined not to constitute a disability. On this same day, Petitioner provided a written statement explaining what he believed to be the source of his personality disorder and stating that he did not wish to be retained. On 12 May 2005, the commanding officer of Petitioner's unit transmitted to the separation authority his recommendation that Petitioner be discharged. Petitioner underwent a separation physical examination on 16 May 2005, at which he was found to be qualified for separation from active duty. On 30 June 2005, Petitioner was discharged from the Marine Corps with a General (Under Honorable Conditions) characterization of service due to personality disorder.

c. In his petition, Petitioner requests to have his narrative reason for separation changed to "Disability, Permanent or Medical." In support of his request, he asserts that he believes he should have had a 50% disability rating upon his separation and the narrative reason for separation would be disability according to the Department of Veterans Affairs (VA). He asserts the Navy doctors and petty officers at his commands were focused on trying to disprove there was anything wrong with him including trying to send him back to training before his evaluations were complete. To support his request, Petitioner provided VA findings.

d. In order to assist the Board in reaching a decision, it obtained the enclosure (2) AO, which was considered unfavorable to Petitioner. The AO provided a 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, Petitioner's personality disorder diagnosis while on active duty was documented in his service medical and personnel records, and that the in-service diagnosis appeared appropriately derived. With respect to Petitioner's ability to perform his duties while on active duty, the AO found that the available objective "clinical and non-clinical evidence documented Petitioner successfully executed the full range of responsibilities of his rate and rank as reflected by his Proficiency and Conduct Performance Marks, with the exception of his misconduct behavior of UA." In fact, according to the AO, Petitioner was not diagnosed with any "medically or psychologically Unfitting conditions, but instead diagnosed him with a Personality Disorder, rendering him unsuitable for continued military service, for which he was appropriately processed for administrative separation." The AO explained that post-service, Petitioner was diagnosed and treated for Bipolar Disorder, "but definitive diagnosis and treatment appeared to have been made by 2015 in the private sector." Further, the AO observed that Petitioner was granted service-connection for Bipolar Disorder at a 50% disability evaluation "effective 2/10/2016" but did not seek VA treatment until 2020, but "there was no evidence he was

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diagnosed with this condition during his military service, during which he received appropriate psychological evaluations.” The AO explained further:

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 duties of his office, grade, rank, MOS, or rating. His Personality Disorder diagnosis appeared appropriately determined, rendered him unsuitable for continued military service, and was appropriately dispositioned via processing for administrative separation consistent with naval instructions. His diagnosis of Bipolar Disorder did not appear to have manifested until after his release from military service was appropriately evaluated/treated through civilian and VA health care systems.

e. The AO concluded, “in my medical opinion, the preponderance of objective evidence provides insufficient support for Petitioner’s contention that at the time of his discharge he was unfit for continued military service due to a mental health condition warranting disability discharge” and noted that “should any further evidence surface supporting unfitness or a disability retirement, resubmission would be appropriate.” Petitioner provided no response in rebuttal to the AO.

## 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 Petitioner had no basis for a medical retirement and denied his request for a medical retirement.

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. 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

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to Petitioner's service that tended to support the applicability of a basis for awarding a medical retirement. 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 Marines 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 discharge by reason of personality disorder.

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 Marine Corps 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 or separation, as well as back pay that he requested.

Finally, the Board observed that Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) describes his narrative reason for separation as personality disorder, and that this reason may cause Petitioner stigma. Thus, the Board determined that clemency was warranted on this point, and that Petitioner's DD Form 214 should be re-issued to reflect that the reason for his discharge was "Secretarial Authority," and a change to the corresponding separation program designator as described below, in order to alleviate any stigma a personality discharge may impart.

#### RECOMMENDATION

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

The Petitioner be issued a new DD Form 214 with changes as follows: Narrative reason for separation: Secretarial Authority; separation program designator: as appropriate.

That part of the Petitioner's request for corrective action that exceeds the foregoing be denied.

That a copy of this report of proceedings be filed in Petitioner's naval record.

That no further changes be made to 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 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.

6/26/2024

