



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

█
Docket No. 6044-23

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) Title 10 U.S.C. §1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USD Memo of 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (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 her naval record be corrected to upgrade her characterization of service and change her narrative reason for separation, separation code, separation authority, and reentry code in accordance with references (b) through (e). Enclosures (1) and (2) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 11 March 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, applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board also considered the advisory opinion (AO) furnished by a 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. Petitioner enlisted in the United States Navy and served honorably from 1 November 1995 to 8 October 2003. She immediately reenlisted on 9 October 2003 and was transferred from [REDACTED] to [REDACTED].

d. In January 2004, Petitioner received mental health treatment due to symptoms of depression. Medical records indicate that she reportedly began feeling depressed in 2002 when stationed in [REDACTED]. Notes dated January 31, 2004 read, “[Petitioner] assigned to [REDACTED] [REDACTED] who presents as an outpatient medevac from [REDACTED]. She has a history of one admission in [REDACTED] last summer secondary to suicidal ideations (but not attempt) at that time. Later transferred to [REDACTED] where her symptoms worsened after a period of having stopped taking her medications... attempted suicide via overdose with two separate medications.” Petitioner was diagnosed with Major Depression and Schizotypal Personality Disorder.

e. On 3 February 2004, Petitioner was placed on limited duty due to depression and suicidal thoughts, and medically evacuated back to the United States for treatment at [REDACTED] [REDACTED]. Treating providers noted, “a longstanding history of hearing a male or female voice speaking her name (never a command hallucination) and seeing ‘curtains move’ or ‘walls breathing.’ These perceptual experiences were noted in her prior hospitalization and on psychological testing and were felt to be secondary to a Schizotypal Personality Disorder rather than a primary psychotic disorder. These symptoms are chronic, have not caused occupational or social impairment and were not exacerbated or linked to her depression. Her reality sense and testing were intact. She denied alcohol use in recent weeks and has not used illicit drugs. She felt her current psychotropic medications were helpful and felt that she was doing better than she was several weeks ago.”

f. From 21 February 2004 to 1 March 2004, she was hospitalized at [REDACTED] due to suicidal ideations. Psychiatry notes from this hospitalization read, “[d]epression started in approximately June 2002 when she was in [REDACTED] and her husband and children were planning on moving out of the country. She reported depression with SI and was also drinking 2-3 beers or 1 or 2 glasses of liquor per day. She was evidently hospitalized in a hospital in [REDACTED] for about 1 week and prescribed unknown medications.”

g. On 17 May 2004, Petitioner was found guilty at non-judicial punishment (NJP) of violating Uniform Code of Military Justice (UCMJ) Article 112(a), for wrongful use of marijuana, and Article 86, for two specifications of unauthorized absence (UA) from her appointed place of duty. She was awarded 30 days restriction and reduction in rank to E-4 (all suspended for 6 months).

h. On 17 May 2004, Petitioner was notified that her command initiated administrative separation (ADSEP) processing by reason of misconduct – drug abuse. She waived her right to consult with qualified counsel and her right to present a case in her defense.

i. On 17 June 2004, Petitioner was discharged from the Navy with an Other Than Honorable (OTH) characterization of service based on her misconduct and assigned an RE-4 reenlistment code.

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j. Petitioner contends that she incurred mental health conditions during military service, which were caused and/or exacerbated by personal and professional stressors, resulting in her self-medication with marijuana. In support of her contentions, Petitioner provided post-service psychiatric records from [REDACTED], where she was treated in 2006-2007 and diagnosed with Schizoaffective Disorder, Alcohol Dependence, PTSD, Cocaine Dependence, and Cannabis Dependence. She also provided treatment records from the Department of Veterans Affairs (VA), where she was seen as an outpatient from 2020-2022, and diagnosed with Unspecified Trauma and Stressor Disorder.

k. As part of the Board's review process, a qualified mental health professional reviewed Petitioner's contentions and the available records and issued an AO dated 9 January 2024. The AO noted in pertinent part:

There is evidence that the Petitioner was diagnosed with a mental health condition while in service. Psychiatric notes indicate a family history of depression and psychosis. Although it is possible that her mental illness contributed to worsened substance abuse, it is unlikely that her mental health symptoms caused all of her substance use which led to misconduct. In psychiatric interviews – both in service and post-service, the Petitioner admitted to marijuana use at the age of 17, and that marijuana use laced with cocaine was her drug of choice at least until 2006. It is also possible that psychotic symptoms could have been caused by marijuana and cocaine in combination with liquor and possible psychotropic medications—particularly since all evaluations noted psychotic symptoms that were lower than the threshold to warrant a primary mental health diagnosis.

The AO concluded, “it is my considered clinical opinion there is sufficient evidence of a mental health condition that was diagnosed during military service. There is insufficient evidence that all of her misconduct could be attributed to a mental health condition.”

l. In response to the AO, Petitioner provided a personal statement on 27 February 2024, as well as a psychologist letter dated 13 February 2024, diagnosing her with “‘Schizoaffective Disorder,’ more likely than not occurred during service, no evidence of MHC symptoms upon entry into service and for first periods of service.”

m. On 28 February 2024, the mental health professional reviewed rebuttal materials and letter from the psychologist. The psychologist noted "no prior history of substance abuse pre-service," however post-service records note Petitioner did admit to pre-service marijuana and alcohol use. There are also inconsistencies regarding Petitioner's in-service anecdote whereby she admitted to using THC (marijuana) regularly, but then in the current petition claims to not recall prior use. The mental health professional maintained that Petitioner's misconduct cannot be said to have been caused by mental health issues, and therefore the original AO remains the same.

CONCLUSION:

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

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Petitioner's request warrants partial relief. While the Board noted Petitioner's misconduct and does not condone her actions, it concluded that her diagnosed mental health conditions sufficiently mitigated her misconduct to merit relief. Specifically, under the guidance provided in references (b) through (e), the Board determined the mitigation evidence outweighed the severity of the misconduct. In making this finding, the Board substantially concurred with AO that there is in-service evidence of diagnosed mental health conditions, which may have contributed to the circumstances surrounding her separation. The Board also noted that there is post-service evidence of other diagnosed mental health conditions, consistent with her in-service diagnoses. Accordingly, the Board concluded that a re-characterization of Petitioner's service to Honorable is appropriate and warranted in this case.

Additionally, the Board concluded Petitioner's narrative reason for separation, separation code, and separation authority should be changed, as the misconduct committed by the Petitioner was mitigated by her mental health issues. Specifically, the Board felt that changing the narrative reason for separation to Secretarial Authority would be more appropriate than continuing to label the separation as misconduct.

The Board did not find an injustice with the Petitioner's RE-4 reentry code. The Board concluded the Petitioner was assigned the correct reentry code based on the totality of the circumstances, and that such reentry code was proper and in compliance with all Department of the Navy and Marine Corps directives and policy at the time of her discharge.

RECOMMENDATION:

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

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) that shows that, on 17 June 2004, the characterization of service was "Honorable," the narrative reason for separation was "Secretarial Authority," the separation authority was "MILPERSMAN 1910-164," and the separation code was "JFF."

That no further changes be made to the record.

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.

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

3/26/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]