



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

██████████
Docket No: 7395-23
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER ██████████
XXX XX ██████████ USMC

Ref: (a) 10 U.S.C. §1552
(b) SECDEF Memo of 3 Sep 14 "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD"
(c) PDUSD Memo of 24 Feb 16 "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI"
(d) PDUSD Memo of 25 Aug 17 "Clarifying Guidance to Military Discharge Review 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"

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion dated 12 March 2024

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Marine Corps filed enclosure (1) with this Board requesting that his Narrative Reason for Separation of "Personality Disorder" be changed to "PTSD." Enclosures (2) through (4) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 1 May 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 enclosure (4), the advisory opinion (AO) dated 12 March 2024. Although Petitioner was provided an opportunity to comment on 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:

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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.

c. Petitioner entered active duty with the Marine Corps on 3 December 1993. On 10 June 1994, Petitioner was formerly counseled on his poor adjustment to military life, unsatisfactory performance, military demands, and suicidal ideation. On 27 June 1994, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA) totaling four days. Subsequently, Petitioner received a psychological evaluation that diagnosed him with an adjustment disorder with emotional features and a personality disorder. Consequently, he was notified of pending administrative separation action by reason of a personality disorder. After waiving his rights, his commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge by reason of a personality disorder, with a General (Under Honorable Conditions) characterization of service. The SA approved the recommendation and, on 16 September 1994, he was so discharged.

d. In his application, Petitioner asserts that he was misdiagnosed with a personality disorder and instead suffered from PTSD.

e. Based on Petitioner's assertion of a PTSD, enclosure (4) was requested and reviewed. It stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. 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 evaluation performed by the mental health clinician. There is no evidence of a diagnosis of PTSD. He has provided evidence of a mental health condition that is temporally remote to his military service and appears unrelated. Unfortunately, there is insufficient evidence of error in his in-service diagnoses. 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 AO concluded, "it is my clinical opinion there is in-service evidence of an Adjustment Disorder diagnosis that may be attributed to military service. There is insufficient evidence of error in his in-service diagnoses."

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. Specifically, in keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, the Board determined the evidence supports Petitioner's request for an Honorable characterization of service. Specifically, the Board noted Petitioner's misconduct and does not condone his actions. However, the Board noted Petitioner's military proficiency and behavior

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traits were 4.1 at the time of his separation and met the eligibility criteria for an Honorable character of service. An average of 4.0 in proficiency and behavior was required for Honorable character of service at the time of Petitioner's separation. As a result, the Board concluded, purely as a matter of injustice, it was appropriate to change Petitioner's characterization of service to "Honorable."

The Board also 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 certain remedial administrative changes are warranted to his DD Form 214.

Notwithstanding the recommended corrective action below, the Board determined insufficient evidence exists to change Petitioner's narrative reason for separation to reflect a disability discharge. In making this finding, the Board substantially concurred with the AO that there is insufficient evidence of an error in his in-service diagnosis. While he provided evidence of a mental health condition that is temporally remote to his military service, the Board agreed that it appears unrelated to his military service. Finally, based on Petitioner's unsuitability for continued military service, the Board determined his assigned reentry code remains appropriate. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) that shows that, on 16 September 1994, his characterization of service was "Honorable," his narrative reason for separation was "Secretarial Plenary Authority," his separation code was "JFF1", and his separation authority was "MARCORSEPMAN 6214."

That Petitioner be issued a new discharge certificate.

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.

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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.

5/13/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]