



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

██████████
Docket No. 7756-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER ██████████, USNR,
XXX-XX-██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) SECDEF Memo, 3 Sep 14 (Hagel Memo)
(c) USD Memo, 25 Aug 17 (Kurta Memo)
(d) USD Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149
(2) Narrative Summary (knee), 6 May 2020
(3) Narrative Summary, 6 May 2020
(4) Evaluation Report and Counseling Record, 30 Apr 20
(5) ██████████ Med Record, 10 Apr 20
(6) MEB Report, 27 May 20
(7) Recommendation for Administrative Separation, 21 May 20
(8) Informal PEB Finding, 30 Jun 20
(9) Informal PEB EOO, 8 Jul 20
(10) ██████████ Psychiatrist Ltr, ██████████
(11) Evaluation Report and Counseling Record, 21 Oct 20
(12) Formal PEB Finding, 31 Jan 21
(13) Certificate of Release or Discharge from Active Duty, 12 Feb 21
(14) PEB Notification of Decision, 1 Feb 21
(15) PEB Notification of Decision, 17 Jul 23
(16) Commander, Navy Personnel Command Ltr, ██████████
(17) Department of Veterans Affairs Psychologist Ltr, ██████████
(18) University of ██████████, Dept of Early Child Education Ltr 12 Apr 24
(19) Advisory Opinion by Ph.D, Physician Advisor, 18 March 2024
(20) Petitioner Rebuttal, 25 Apr 24

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 record be corrected by upgrading his characterization of service and changing his narrative reason for separation. Enclosures (1) through (20) apply.

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.

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

Documentary material considered by the Board consisted of Petitioner's application, together with all material submitted in support thereof, relevant portions of his naval record, and applicable statutes, regulations, and policies. In addition, the Board considered enclosure (19), an advisory opinion (AO) from 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. Petitioner enlisted in the Naval Reserve and began active duty service on 3 January 2018. Petitioner injured his knee while running in October 2018, enclosure (2). He self-referred to a substance abuse rehabilitation program (SARP) in April 2019 and started to receive treatment for the diagnosis of Alcohol Use Disorder and Unspecified Mood Disorder, enclosure (3). A 17 June 2019 MRI showed lateral patella dislocation and Petitioner was recommended for left knee surgery, enclosure (2). In January 2020, Petitioner received Blue Jacket of the Quarter First Quarter, 2020 for superior performance from 1 October – 31 December 2019, enclosure (4). In February 2020, Petitioner re-engaged with mental health and admitted to past trauma, witnessed a friend being shot and killed, enclosure (3). On 10 April 2020, Petitioner was sent to the emergency room by his command for intoxication, enclosure (5). On 27 April 2020, Petitioner was referred to the Disability Evaluation System for his knee and diagnoses of Post-Traumatic Stress Disorder (PTSD) and Major Depression (MDD), enclosure (6).

c. On 21 May 2020, Petitioner received notice of recommendation for administrative separation, noting Petitioner underwent a non-judicial punishment (NJP) on 30 April 2020, enclosure (7). However, there is no NJP Report Chit, Page 13 or Court Memorandum in Petitioner's record. On 30 June 2020, the Informal PEB (IPEB) found Petitioner unfit for lateral subluxation of left patella, and fit for MDD and PTSD, enclosure (8). Petitioner requested a formal PEB hearing on 8 July 2020, enclosure (9). On 22 July 2020, a psychiatrist at the Federal Health Care Center James Lovell, noted Petitioner was hospitalized inpatient psychiatry for 10 days and diagnosed with Bipolar disorder, enclosure (10). An evaluation and counseling record covering the period 16 July 2020 to 21 October 2020, noted Petitioner underwent NJP on 21 October 2020, enclosure (11). However, there is no Page 13 administrative remark or court memorandum in his record. On 31 January 2021, the Formal PEB found Petitioner unfit for Bipolar disorder and lateral subluxation of the left patella at a 60% rating, recommending placement on the Temporary Disability Retired List (TDRL), enclosure (12). Petitioner was discharged, on 12 February 2021, with a General (Under Honorable Conditions) characterization of service. Petitioner's Certificate of Release or Discharge from Active Duty (DD 214) states Pattern of Misconduct as the narrative reason for separation, enclosure (13). Due to administrative errors, Petitioner received documentation from the PEB and the Commander, Naval Personnel Command that he was to be placed on the TDRL and Permanent Disability Retirement List, enclosures (14-16).

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

d. Petitioner alleges that his misconduct was due to his physical and mental health conditions, to include Bipolar Disorder. He requests a change to his characterization of service to Honorable and a change to his narrative reason for separation. To support his petition, he provided Department of Veterans Affairs documentation to include a letter from his treating psychologist dated 11 April 2024, enclosure (17) and a letter from his Early Childhood Education class professor dated 12 April 2024, enclosure (18).

e. In order to assist the Board in evaluating this petition, the Board obtained the AO. The AO stated in pertinent part:

Although the Petitioner was diagnosed in service with PTSD and Bipolar Disorder, his repetitive use of alcohol and poor compliance with therapy and medications together with lack of candor regarding past trauma are more consistent with his diagnoses of Alcohol Use Disorder and Borderline Personality Disorder. His personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is sufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct could be attributed to his mental health condition."

f. Petitioner submitted a rebuttal to the AO, enclosure (20). After a review of his rebuttal evidence, the AO remained unchanged.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of references (b) through (d), the Board determined that Petitioner's request warrants relief.

The Board determined Petitioner's discharge for misconduct was supported by his record of misconduct. However, as a result of its review of the foregoing factors, the Board acknowledged that Petitioner's performance declined after the Petitioner self-reported mental health concerns and alcohol abuse. In addition, the Board noted Petitioner struggled with various mental health issues while in service as evidenced by his diagnoses and inpatient hospitalization in-service. The Board concluded these factors were sufficient to warrant a level of mitigation, purely as a matter of clemency. Accordingly, the Board determined that Petitioner's characterization of service shall be upgraded to Honorable with a change to reflect his basis for separation to Secretarial Authority.

Nevertheless, the Board determined Petitioner's assigned reentry code remains appropriate in light of his unsuitability for further military service. Further, the Board determined his misconduct based administrative separation was appropriate and superseded his disability processing. Therefore, notwithstanding the recommended corrective action below, based on its

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

concurrence with the AO that insufficient evidence that his misconduct could be attributed to his mental health condition, the Board determined Petitioner is not entitled to be placed on the disability retirement list. Even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board found insufficient evidence of error or injustice to support his placement on the disability retirement list. Ultimately, the Board determined the recommended corrective action adequately addresses any injustice in Petitioner's record.

RECOMMENDATION

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

Petitioner will be issued a new DD Form 214 and discharge certificate, for the period ending 12 February 2021, indicating his characterization of service was "Honorable," the narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 1910-164."

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

That no further relief be granted.

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

6/27/2024

