



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

█  
Docket No. 8489-23

Ref: Signature Date

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

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

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 his naval record be corrected to upgrade his characterization of service 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 22 April 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. Although Petitioner was provided an opportunity to respond to 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:

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. The Petitioner enlisted in the United States Marine Corps and began a period of active service on 30 April 1969.

d. On 12 November 1969, Petitioner was found guilty at non-judicial punishment (NJP) of violating Uniform Code of Military Justice (UCMJ) Article 92, for failure to obey an order by not participating in a weekly field day. He was awarded forfeitures of \$20 pay per month for one month. He did not appeal this NJP.

e. From 4 February 1970 to 24 May 1970, Petitioner participated in combat operations against insurgent Communist forces in the defense of the Republic of [REDACTED].

f. While deployed to [REDACTED], Petitioner was hospitalized from 11 March 1970 to 14 March 1970, after taking an unknown amount and type of drugs. He was diagnosed with "Drug Ingestion Secondary to Situational Anxiety." A drug lab report later determined that the eight foil wrapped tablets found in Petitioner's belongings were "Binoctal" and contained barbiturates.

g. On 3 April 1970, Petitioner was found guilty at his second NJP of violating UCMJ Article 92, for failure to obey an order by not observing noise discipline by having his radio turned up. He was awarded forfeitures of \$20 pay per month for one month. He did not appeal this NJP.

h. On 11 April 1970, he was informed that the command initiated administrative separation (ADSEP) processing due to misconduct related to drug abuse. On 29 April 1970, the ADSEP Board found that the basis for separation was met, and recommended separation with an "Undesirable Discharge on the Grounds of Unfitness."

i. On 2 June 1970, Petitioner was discharged from the Marine Corps due to his misconduct with an Other Than Honorable characterization of service and assigned an RE-4 reenlistment code.

j. Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) as a result of his combat service in [REDACTED], which led to his misconduct and ultimately his discharge. In connection with Petitioner's assertion that his mental health condition mitigates the circumstances that led to his discharge character of service, the Board requested and reviewed an Advisory Opinion (AO) provided by a licensed clinical psychologist (Ph.D.), who reviewed the Petitioner's contentions and the available records and issued an AO dated 11 March 2024. The AO stated in pertinent part:

During his military service, the Petitioner was hospitalized for a drug overdose. Although he did not receive a formal diagnosis, this hospitalization could be a behavioral indicator of undiagnosed symptoms of PTSD. He has provided no medical evidence to support his claims. It is possible his disobedience during the combat deployment could be attributed to irritability associated with undiagnosed PTSD. However, there is insufficient evidence to attribute his pre-deployment misconduct to PTSD. Additional records (e.g., post-service mental health records

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describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The Ph.D. concluded, "it is my clinical opinion there is some in-service behavioral evidence that could indicate undiagnosed PTSD that may be attributed to military service. There is insufficient evidence to attribute all of his misconduct to PTSD."

#### CONCLUSION:

After careful review and consideration of all of the evidence of record, the Board determined that relief is warranted in the form of upgrading Petitioner's characterization of service from an Other than Honorable (OTH) to a General (Under Honorable Conditions) (GEN).

Because Petitioner based his claim for relief upon mental health conditions, his application was reviewed in accordance with the guidance of references (b) through (e). Accordingly, the Board applied liberal consideration to Petitioner's contention. In this regard, the Board concluded that Petitioner may have been suffering from undiagnosed mental health conditions during his military service. Although Petitioner did not submit medical evidence to support his claim, and despite the fact that there is no evidence of formal diagnosis, his in-service hospitalization due to a drug overdose could be a behavioral indicator of undiagnosed symptoms of PTSD. In keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, the Board felt that Petitioner's undiagnosed mental health condition was a possible causative factor for the misconduct that formed the basis of his discharge and therefore mitigated his conduct. After viewing the nexus between Petitioner's combat service and his subsequent misconduct, the Board concluded that no useful purpose is served by continuing to designate Petitioner's separation as other than Honorable, and that an upgrade to GEN conditions is appropriate.

Notwithstanding the recommended corrective action, the Board was not willing to grant an upgrade to an Honorable (HON) discharge. The Board highlighted that an HON discharge is appropriate only if the Marine's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. In this case, the Board concluded that significant negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record. They noted that even though flawless service is not required for an HON discharge, a GEN discharge is still the appropriate characterization in this case considering the fact that Petitioner's misconduct involved drug use during deployment to Vietnam.

The Board also concluded that Petitioner's narrative reason for separation, separation code, and reenlistment code should remain unchanged. Although the Board found that the mitigating information warrants a characterization upgrade, the basis for separation and the fact that he was not recommended for reenlistment remains accurate and in compliance with all Department of the Navy and Marine Corps directives and policy at the time of his discharge. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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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, on 2 June 1970, the character of service was "General (Under Honorable Conditions)."

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

