



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

█  
Docket No. 8599-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, USNR,  
█

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 w/attachments  
(2) Naval record (excerpts)  
(3) Advisory Opinion, 9 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 for an upgrade of his characterization of service and a change to his narrative reason for separation, separation code, and reenlistment code.

2. The Board, consisting of █, and █, reviewed Petitioner's allegations of error and injustice on 5 June 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). In addition, the Board considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional. 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 regulation 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 enlisted in the Navy and began a period of active duty on 16 February 2006.

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[REDACTED]

d. On 17 November 2006, Petitioner received a mental health evaluation and subsequently diagnosed with alcohol dependence and personality disorder and recommended for administrative separation. The mental health provider noted the following:

This patient's condition are sufficiently severe to impair his ability to function effectively in the military environment, as demonstrated by the following problem behaviors: immaturity, mendacity, aggressiveness, failure to conform to social norms, a profound sense of entitlement, arrogance, self-righteousness, impulsivity, a persistently unstable sense of self, and a pattern of unstable and intense interpersonal relationships.....The following risks are associated with retention in service: inability to perform in rate, inability to empathize with others or care about their needs, which might predispose others to dangers, poor resilience to routine stresses of military life, and other behaviors disruptive to unit morale.

e. On 20 November 2006, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of convenience of the government as evidenced by his diagnosed personality disorder. Petitioner was advised of and waived his procedural right to consult with military counsel and to submit a rebuttal statement to his administrative separation processing.

f. The separation authority directed Petitioner's administrative discharge from the Navy with a General (Under Honorable Conditions) character of service by reason of convenience of the government - personality disorder. On 5 December 2006, Petitioner was so discharged.

g. Petitioner contends the following injustices warranting relief:

(1) He believes that a correction should be made due to a number of extenuating circumstances that occurred during his time in the Delayed Entry Program (DEP) as well as during his active duty service;

(2) The Naval Criminal Investigative Service (NCIS) investigation found that his reporting of his sexual assault was substantiated;

(3) His diagnosis of personality disorder was given to him after he reported that he was the victim of a sexual assault;

(4) He was advised by his command to report to a military psychiatrist, he was interviewed and given an incorrect diagnosis; and

(5) His diagnosis of a personality disorder was based on very little clinical evidence with no prior mental health history and without any supporting history of disciplinary actions or unsatisfactory service performance.

h. For purposes of clemency and equity consideration, the Board considered the evidence the Petitioner submitted in support of his application.

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[REDACTED]

i. As part of the Board's review, a qualified mental health professional reviewed Petitioner's request and provided the Board with enclosure (3), an advisory opinion (AO). The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose to the mental health clinician, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. He has provided evidence of a temporally remote post-service diagnosis of post-traumatic stress disorder (PTSD), however his personality disorder diagnosis and his PTSD diagnosis are not mutually exclusive. 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 personality disorder diagnosis in-service, and a temporally remote diagnosis of PTSD post-service. There is insufficient evidence that the rationale for his discharge was in error."

j. In response to the AO, you submitted your service record, which was previously considered in its entirety. Consequently, the AO remained unchanged.

## CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief in the interests of justice.

In keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, the Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior and/or personality 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.

The Board determined that Petitioner's discharge should not be labeled as being for a mental health-related condition and that certain remedial administrative changes are warranted to the DD Form 214. Accordingly, the Board concluded that Petitioner's narrative reason for separation, separation code, and separation authority should be changed to reflect a Secretarial Authority discharge in the interests of justice to minimize the likelihood of negative inferences being drawn from his naval service in the future. However, the Board concluded Petitioner's reentry code should remain unchanged based on Petitioner's unsuitability for further military service due to his diagnosed mental health condition.

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[REDACTED]

With regard to Petitioner's request for a discharge upgrade, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with references (b) through (e). These included, but were not limited to, Petitioner's desire to upgrade his discharge character of service and the previously mentioned contentions raised by Petitioner in his application.

After thorough review, the Board concluded that Petitioner's potentially mitigating factors were insufficient to warrant relief. The Board concurred with the AO that there is insufficient evidence that the rationale for his discharge was in error. As the AO explained, Petitioner was appropriately referred for a psychological evaluation during his enlistment and his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. Finally, the Board relied on the presumption of regularity in determining his assigned characterization of service was appropriate. The Board determined the Petitioner's evidence was insufficient to overcome the presumption in his case. Therefore, the Board found that the discharge was proper and equitable, even in light of references (b) through (e) and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the relief he requested or granting the requested relief as a matter of clemency or equity. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

#### RECOMMENDATION

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 214 reflecting that, for the period ending 5 December 2006, Petitioner's narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 1910-164."

That no further correction action be taken on Petitioner's naval record.

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

4. It is certified that 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.

6/24/2024

