



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

██████████  
Docket No. 9923-23

Ref: Signature Date

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

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

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) USECDEF Memo of 25 Aug 2017 (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 of 5 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 to Honorable and his narrative reason for separation to convenience of the government.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 22 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, 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, that was considered favorable toward Petitioner.

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 6 March 1989. On

10 March 1989, he was briefed on the Navy's policy on drug and alcohol abuse. On 8 January 1993, he received non-judicial punishment (NJP) for failure to obey a lawful order by possessing alcohol onboard a naval vessel, possession of drug paraphernalia and wrongful use of marijuana.

d. As result, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct drug abuse and elected to have an administrative discharge board (ADB) hear his case. On 26 February 1993, the ADB found misconduct and recommended separation with an Other than Honorable (OTH) discharge. The Commanding Officer (CO) made his recommendation to the Separation Authority (SA) and the SA accepted the ADB's recommendation and directed discharge with an OTH. On 4 March 1993, Petitioner was discharged from the Navy with an OTH characterization of service by reason of misconduct drug abuse.

e. Petitioner contends that a single mistake in a four-year enlistment with no other incidents shouldn't carry a lifetime of burden because his mental health was in question at the time and had negative effects on his decision making.

f. 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:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Temporally remote to his military service, a civilian neuropsychologist has diagnosed him with PTSD attributed to military service. Unfortunately, available records are not sufficiently detailed to provide a nexus with his misconduct, particularly given repeated statements that his misuse was a onetime lapse in judgment. 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 post-service evidence from a civilian psychologist of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

## 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.

The Board found no error in Petitioner's OTH characterization of service discharge for separation for misconduct. However, because Petitioner based his claim for relief in whole or in part upon his PTSD and mental health condition (MHC), the Board reviewed his application in accordance with the guidance of references (b) through (d).

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Accordingly, the Board applied liberal consideration to Petitioner's claimed PTSD, MHC and the effect that it may have had upon his misconduct. In this regard, the Board substantially agreed with the AO in that there is post-service evidence from the civilian psychologist of a diagnosis of PTSD that may be attributed to military service.

In applying liberal consideration to Petitioner's mental health condition and any effect that it may have had upon his misconduct, the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Board considered, among other factors, the mitigating effect of Petitioner's mental health condition may have had upon his misconduct. After thorough review, the Board found that Petitioner's PTSD did have an effect on his misconduct and the mitigating circumstances of his PTSD outweighed the misconduct for which Petitioner was discharged. Therefore, the Board determined the interests of justice are served by upgrading his characterization of service to General (Under Honorable Conditions) (GEN).

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the service member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct outweighed the positive aspects of his military record even under the liberal consideration standards, and that a GEN discharge characterization, and no higher, was appropriate.

Further, although not specifically requested by the Petitioner and based on the same rationale for upgrading Petitioner's character of service, the Board also determined that Petitioner's narrative reason for separation, separation authority, and separation code should be changed to reflect a Secretarial Authority discharge. However, the Board concluded Petitioner's reentry code should remain unchanged based on his unsuitability for further military service. Ultimately, the Board determined that 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 Certificate of Release from Active Duty (DD Form 214) reflecting that, for the period ending 4 March 1993, Petitioner's character of service was "Under Honorable Conditions (General)," the narrative reason for separation was "SECRETARY PLENARY AUTHORITY" the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 3630900."

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.

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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.

6/5/2024

