



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

█
Docket No. 10867-23
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF █
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Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo, 3 Sep 14 (Hagel Memo)
(c) PDUSD Memo, 24 Feb 16 (Carson Memo)
(d) USD Memo, 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion dated 14 May 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 General (Under Honorable Conditions) (GEN) characterization of service be changed. Enclosures (2) through (4) apply.

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 12 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, and applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board also considered enclosure (4), the advisory opinion (AO) from a qualified mental health professional. 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:

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 enlisted in the Marine Corps on 26 November 2001. On 26 April 2002, Petitioner received non-judicial punishment (NJP) for being in an unauthorized absence (UA) status for 13 days. On 19 June 2002, Petitioner was diagnosed with a Personality Disorder and an Adjustment Disorder. Subsequently, 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) (GEN) characterization of service. The SA approved the recommendation and, on 22 August 2002, he was so discharged.

d. In his application, Petitioner asserts that he incurred mental health concerns during military service, which may have mitigated the circumstances of his separation and he was told he would be eligible for educational benefits with a GEN discharge.

e. Based on Petitioner's assertion of a mental health condition, 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 mental health diagnoses were 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. Post-service, the VA has granted service connection for a mental health condition. It is possible that the mental health concerns identified as characterological and difficulty adapting may have been re-conceptualized as anxiety symptoms with the passage of time and increased understanding.

The AO concluded, "it is my clinical opinion there is post-service evidence from the VA of a mental health condition that may be attributed to military service. There is post-service evidence to attribute his misconduct to a mental health condition."

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 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.

Further, the Board determined Petitioner's request for an Honorable characterization of service is supported by the evidence. The Board noted that Petitioner's military behavior trait was above averaged and he met the eligibility criteria for an Honorable character of service. As a result, the Board concluded it was appropriate to change Petitioner's characterization of service to

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“Honorable,” along with a narrative reason for separation of “Secretarial Authority” and associated changes to his SPD code, and separation authority.

Finally, the Board concluded that Petitioner’s reentry code remain appropriate 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.

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) and discharge certificate, for the period ending 22 August 2002, that 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 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 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.

6/27/2024

