



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

██████████  
Docket No. 1018-23

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552  
(b) SECDEF Memo of 3 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/ enclosures  
(2) Advisory Opinion (AO) of 2 Jul 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 discharge be upgraded, that his narrative reason for separation and corresponding separation code be changed to "Secretarial Authority," and that his reenlistment code be changed to "RE-1." Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 12 July 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 qualified mental health provider, which was considered favorable to Petitioner's mental health contentions.

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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

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b. Petitioner enlisted in the Navy and began a period of active duty on 1 October 1997. He was assigned to the ██████████ and served without incident for over four years, to include receiving the Good Conduct Medal.

c. On 28 May 2002, Petitioner was subject to nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice (UCMJ) under Article 92 for failure to obey an order or regulation. He was reduced to the paygrade of E-4, restricted to base for 30 days, and issued administrative counseling advising him that further misconduct could result in administrative separation.

d. Petitioner received a routine physical examination on 11 June 2002 during which he noted symptoms of headaches, insomnia, and chest pains.

e. An official message from the Naval Drug Lab, on 27 June 2002, reported Petitioner's urinalysis positive for MDMA and MDA. He was subsequently subject to a second NJP for a violation of the UCMJ under Article 112a due to his wrongful use of a controlled substance. In addition to two months forfeiture of one-half months' pay per month, he was reduced to the paygrade of E-3 and placed on 45 days of restriction and extra duties. He was also subsequently disqualified from submarine duty and his entitlement to his submarine insignia was revoked.

f. Consequently, Petitioner was notified of separation for misconduct due to drug abuse, commission of a serious offense, and pattern of misconduct. He elected to waive his rights incident to his separation, and a recommendation for his discharge under Other Than Honorable conditions was forwarded for action.

g. Commander, Submarine Group 10, approved Petitioner's separation as recommended, and he was discharged accordingly, on 23 August 2002, with a 3.09 cumulative trait average.

h. Petitioner contends that he experienced severe mental health symptoms following a near death experience aboard a submarine which he believes, under liberal consideration, mitigates the misconduct which resulted in his discharge. For the purpose of clemency and equity consideration, he also submitted his positive post-service conduct to include achieving sobriety and long-term employment as well as service as a volunteer firefighter. He states that he has taken responsibility, shown remorse and, with the passage of time, believes that he has been sufficiently punished by the adverse nature of his discharge when weighed against all favorable factors, to include his multiple years of Honorable service prior to his traumatic incident.

i. With respect to his experience of trauma, Petitioner describes that, during his fourth strategic deterrence patrol, he entered a tight space during cleanup but was unable to maneuver to exit. He was forced to remain confined to the space and isolated, with water leaking from equipment and extreme heat emanating from the lube oil sump for six hours before ship personnel were able to rescue him. He did not receive any medical attention afterward and was told by superiors to "shake it off" and continue working. Following the incident, he began experiencing flashbacks, nightmares, insomnia, hypervigilance, and chronic anxiety, as well as a fear of confined spaces and a loss of confidence in his ability to perform his military duties. Petitioner states that he began self-medicating with alcohol.

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j. Petitioner also describes a second traumatic experience which occurred during his fifth patrol that further exacerbated his symptoms after he was asked to clean a similar confined space that was difficult to access. His states that his peers lowered him into the space by his ankles to clear an obstruction but then released him and closed him into the space. Although they returned to retrieve him, it caused him to relive his previous trauma and further exacerbated his symptoms. However, he feared that he would be stigmatized if he sought mental health assistance and continued self-medicating with alcohol and later with other substances to try to escape his symptoms.

k. Because Petitioner contends that a mental health condition affected the circumstances of his discharge, the Board requested the AO for consideration. The AO stated in pertinent part:

During military service, the Petitioner was evaluated and denied substance dependence. He was diagnosed with alcohol use disorder. Temporally remote to his military service, the VA has granted service connection for a mental health condition and two civilian mental health clinicians have diagnosed PTSD and other mental health concerns that have been attributed to military service. It is possible that his misconduct in service could be considered behavioral indicators of undiagnosed symptoms of PTSD and other mental health concerns, particularly as the Petitioner had several years of successful service prior to an abrupt decline over the last three months of service.

The AO concluded, "it is my clinical opinion there is post-service evidence from the VA and civilian mental health providers of diagnoses of PTSD and other mental health conditions that may be attributed to military service. There is post-service evidence from civilian mental health providers to attribute his misconduct to PTSD."

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants favorable action in the form of relief. The Board reviewed his application under the guidance provided in references (b) through (e).

The Board noted Petitioner's misconduct and does not condone it; however, the Board concurred with the clinical conclusion of the AO regarding the medical evidence of a clear nexus between Petitioner's in-service substance abuse and his experience of traumatic precipitants which resulted in multiple mental health diagnoses. The Board further found that this conclusion is supported by Petitioner's otherwise strong record of performance and conduct for over four and one-half years, which took a rapid and dramatic downturn within the space of a single month immediately prior to his discharge and prior to his purported experience of trauma due to being trapped in a confined space. Applying liberal consideration, and consistent with Petitioner's mental health diagnoses, the Board found that the favorable factors Petitioner submitted for consideration sufficiently outweighed the misconduct evidenced by his two NJPs to warrant a correction to his discharge. Accordingly, the Board determined that it is in the interest of justice to grant partial relief to the extent of upgrading Petitioner's discharge to a characterization under

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honorable conditions and changing his narrative reason for separation and corresponding separation code to "Secretarial Authority."

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 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 and/or performance outweighed the positive aspects of his military record, even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate.

Finally, due to the severity of Petitioner's multiple mental health diagnoses and the administrative function of his RE-4 reentry code, the Board found no basis to change his reentry code. Ultimately, the Board determined 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), indicating that on 23 August 2002, he was issued a "General (Under Honorable Conditions)" discharge, under the authority of "MILPERSMAN 1910-164," for the narrative reason of "Secretarial Authority," with a separation code of "JFF."

That no further changes be made to Petitioner's record.

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.

7/31/2024

