



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

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Docket No. 1476-24

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,
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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 3 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 for an upgrade of his characterization of service and change to his narrative reason for separation.

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 21 August 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). The Board also considered enclosure (3), an advisory opinion 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 23 March 1988.

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d. On 12 January 1989, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA).

e. On 18 January 1989, Petitioner received NJP for two specifications of UA, disobeying a lawful order, dereliction in the performance of duty, and disrespect.

f. On 18 January 1989, Petitioner received a mental health evaluation and was subsequently diagnosed with alcohol dependence, chronic, continuous, existing prior to enlistment (EPTE) and borderline personality disorder, Chronic, Severe, EPTE.

g. On 1 March 1989, Petitioner submitted a written request for separation in lieu of trial (SILT) by court-martial. Petitioner's offenses consisted of disrespect in language toward a superior petty officer, failure to obey lawful order or regulation on two occasions, failure to obey a lawful written order, damaging military property, wrongfully used provoking and reproachful words, and breaking restriction. Prior to submitting this request, Petitioner conferred with a military lawyer at which time Petitioner was advised of his rights and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, Petitioner admitted his guilt to the foregoing offenses and acknowledged that his characterization of service upon discharge would be Under Other Than Honorable (OTH) Conditions.

h. The separation authority approved Petitioner's request and directed his commanding officer to discharge him with an OTH characterization of service. On 14 April 1989, Petitioner was so discharged.

i. Petitioner contends the following injustices warranting relief:

(1) His episodes of disrespectful behavior were "manic episodes",

(2) He was experiencing episodes of consuming alcoholic beverages and being under the influence of alcohol, being unable to report on time for assignment, disrespectful action by deed and language, and

(3) His diagnosis of paranoid schizophrenia was made eight months after his separation and was changed to bipolar disorder.

j. For purposes of clemency and equity consideration, the Board considered the documentation Petitioner provided in support of his application.

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

During military service, the Petitioner was diagnosed with Alcohol Use Disorder and Personality Disorder. Within a year of separation from service, the Petitioner was diagnosed with Schizophrenia, which diagnosis was later revised. Records from the time period indicate that the Petitioner's serious mental health symptoms began during military service. It is possible that the mental health symptoms

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identified as Personality Disorder in service have been re-conceptualized as Bipolar Disorder with the passage time and increased understanding. It is possible that his misconduct could be considered behavioral indicators of irritability or grandiosity associated with bipolar disorder. While undiagnosed symptoms of Bipolar Disorder may have contributed to an increase in alcohol consumption, it is difficult to attribute all of his misconduct solely to undiagnosed symptoms of Bipolar Disorder, given pre-service problematic alcohol behavior that continued in service.

The AO concluded, "it is my clinical opinion there is post-service evidence from the civilian providers of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct solely to a mental health condition such as Bipolar Disorder."

CONCLUSION

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

The Board found no error in Petitioner's OTH characterization of service discharge for separation in lieu of trial by court martial. However, because Petitioner based his claim for relief in whole or in part upon his mental health condition (MHC), the Board reviewed his application in accordance with the guidance of references (b) through (e). The Board applied liberal consideration to Petitioner's MHC experience and the effect that it may have had upon his misconduct. Ultimately, the Board agreed with the AO conclusion that there is sufficient post-service evidence of a mental health condition that may be attributed to military service.

In applying liberal consideration to Petitioner's claimed MHC 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 this regard, the Board considered, among other factors, the mitigating effect of Petitioner's MHC may have had upon his misconduct. After thorough review, the Board found that Petitioner's MHC did have an effect on his misconduct and the mitigating circumstances of his MHC outweighed the misconduct for which Petitioner was discharged. Therefore, the Board determined the interests of justice are served by upgrading Petitioner's characterization of service to General (Under Honorable Conditions) and changing his reason for separation to reflect a Secretarial Authority discharge.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned reentry code remains appropriate in light of his unsuitability for further military service. Ultimately, the Board concluded 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:

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[REDACTED]

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, on 14 April 1989, Petitioner's characterization of service was "General (Under Honorable Conditions)," 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.

9/11/2024

