



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

██████████
Docket No. 1894-24
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,
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 16 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. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 26 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). Additionally, the Board also considered enclosure (2), an advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to Petitioner. Although he was afforded an opportunity to submit a rebuttal, Petitioner 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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

b. Petitioner enlisted in the Navy, with a waiver for a pre-service offense of driving under the influence and pre-service marijuana use, and began a period of active duty on 14 July 1986.

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c. On 21 November 1986, Petitioner received nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice (UCMJ) under Article 134 due to wrongful possession of a military identification card which he knew to be false. He was subject to forfeiture of \$100 pay and issued administrative counseling warning him that further misconduct could result in separation under adverse circumstances.

d. On 12 January 1989, Petitioner was subject to a second NJP for a violation under Article 112a due to wrongful use of amphetamine/methamphetamine. He received a punishment of reduction to the paygrade of E-3, forfeiture of \$429 pay per month for two months, and 45 days of restriction and extra duties.

e. Due to his drug-related offense, Petitioner was medically screened for substance abuse on 17 January 1989. This screening documented that Petitioner had no diagnosable psychosis, had admitted to pre-service marijuana use, and had used "speed" twice during his active service when he was drunk at parties. The medical provider noted that Petitioner had poor judgment but was not drug dependent.

f. On 25 January 1989, Petitioner was notified of administrative separation processing for misconduct due to drug abuse and commission of a serious offense. He elected to waive his right to a hearing before an administrative discharge board and was recommended for an Other Than Honorable characterization of service.

g. With final action on his discharge was still pending, Petitioner received a third NJP for an offense under Article 92 after violating a lawful general regulation by having a bottle of whiskey aboard his ship. He was punished with an additional \$100 forfeiture of pay and restriction for 15 days.

h. The separation authority approved Petitioner's separation for the primary reason of misconduct due to drug abuse and he was so discharged on 17 March 1989.

i. Petitioner contends that he experienced trauma during his military service which caused mental health issues, to include post-traumatic stress disorder (PTSD), and contributed to his misconduct. Specifically, he states that his alcoholism was the root of his problem and eventually led to drug use during his military service; however, he learned from his mistakes and maintained sobriety after a period of post-service incarceration due to his substance abuse. He is now an accomplished substance abuse clinician who has devoted his life to helping those plagued with addictive disorders. Additionally, Petitioner submitted evidence of post-service accomplishments for consideration of clemency.

j. In support of his mental health contentions, Petitioner submitted a clinical mental health assessment and personal statement. In support of his contentions of post-discharge character and accomplishments, Petitioner has submitted his curriculum vitae (CV), three character letters, and evidence of his receipt of a 2019 Community Partner Award for his service to his community. Specifically, his CV reflects that he primarily worked as an ironworker and laborer until 2005. However, beginning 2007, he began working as a substance abuse counselor for a residential treatment facility for the gay, lesbian, and transgender population in ██████████, ██████████. He

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completed several therapy-related internships from 2009 through 2012 while concurrently completing a Master of Science in Counseling and Master of Arts in Christian Ministries. Since 2011, Petitioner served as a Director of Programs with the non-profit organization Solutions for Change providing treatment programs for homeless families in transitional housing, a counseling supervisor in a residential multi-service center with Volunteers of America, a program director for a state prison substance abuse program, a program director for the [REDACTED] Men's Colony long term offenders pilot program, and, from 2014 through 2019, a clinician and psychotherapist with [REDACTED]. In his last role, he was responsible for developing treatment plans to diminish repeat behavior in patients who have engaged in sexually abusive or inappropriate behaviors. Since 2014, Petitioner has also opened, as the owner and operator, four transitional sober living homes and rehabilitation treatment facilities providing services for referrals from the criminal justice system, and he completed his Doctor of Education in Counseling Psychology in 2017. His letters of support attest to the service and dedication he has provided to his community in rehabilitative treatment for offenders both inside and transitioning out of the criminal justice system.

k. Because Petitioner contends that a mental health condition contributed to the substance abuse misconduct which resulted in his discharge, the Board requested the AO at enclosure (2) for consideration. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His alcohol use disorder diagnosis was 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. Temporally remote to his military service, he has received a diagnosis of PTSD, which has been attributed partially to military service by his civilian clinician. Unfortunately, there are discrepancies in the report of his substance use during his recent mental health evaluation and the report of his substance use history found in his service record. More weight has been placed upon in-service reports of pre-service problematic alcohol behavior that continued in service over the Petitioner's current recall and report. 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 provider of a diagnosis of PTSD that may be attributed to military service in part. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition, other than alcohol use disorder."

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).

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The Board noted Petitioner's misconduct and does not condone it. Additionally, the Board concurred with the AO and specifically noted that, even in his personal statement accompanying his application, he has acknowledged that his alcoholism was the root of his problems and led to the drug use misconduct which resulted in his discharge. Similarly, during his in-service medical screening, he acknowledge that his initial drug use had occurred while he was at a party, and he attributed his drug use to his excessive consumption of alcohol. However, the Board favorably observed that Petitioner has committed nearly 20 years of his life toward improving his community by pursuing the highest levels of education and licensure in mental health disciplines and performing extensive duties in this public service field by providing critical and necessary services to underserved populations with serious mental health needs. Therefore, the Board found that the favorable factors Petitioner submitted for consideration of clemency outweighed the misconduct that formed the basis of Petitioner's separation. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's characterization of service to General (Under Honorable Conditions) and change his basis for separation 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. Further, 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.

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), for the period ending 17 March 1989, indicating his "General (Under Honorable Conditions)" discharge, was issued under the authority of "MILPERSMAN 3630900," with a separation code of "JFF," and narrative reason for separation of "Secretary Plenary Authority."

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.

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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.

9/17/2024

