

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
USN, XXX-XX-[REDACTED]

c. Petitioner enlisted in the Navy and began a period of active service on 25 October 1989. He reenlisted on 22 October 1993 and 24 October 1995 after periods of continuous Honorable service.

d. On 3 November 1996, Petitioner received NJP for wrongful use of a controlled substance after self-referring for marijuana use, being evaluated as not dependent, and expressing a strong and determined desire to separate from the service. Petitioner was subsequently notified of administrative separation processing by reason of misconduct due to drug abuse. He waived his right to consult with counsel, make a statement, or request an administrative discharge board. Petitioner's commanding officer recommended an under Other Than Honorable (OTH) discharge by reason of his misconduct, the separation authority accepted the recommendation, and he was so discharged on 13 December 1996. Upon his discharge, he was issued a DD Form 214 that did not annotate his continuous Honorable service from 25 October 1989 through 23 October 1995.

e. Petitioner contends he was traumatized after witnessing another Sailor being run over by an airplane, was not supported by his chain of command, suffered racist tropes and jokes, and was denied opportunities given to less skilled Sailors. Petitioner contends that he needed to find a way out, considered claiming he was homosexual, but settled on reporting that he had used marijuana. For the purpose of clemency and equity consideration, Petitioner submitted a supplemental personal statement but did not provide supporting documentation describing post-service accomplishments or advocacy letters.

f. As part of the Board's review, the Board considered enclosure (4). The AO states in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) during military service, which may have contributed to circumstances of his separation.

Petitioner contended he incurred PTSD after witnessing a fatal accident on the flight deck which was downplayed by his supervisor and experiencing other racial harassment and neglect, that contributed to the circumstances of his separation. He provided a statement regarding his post-service accomplishments.

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. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct.

The AO concluded, "it is my clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD."

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CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial warrants relief. Specifically, as discussed, Petitioner's DD Form 214 does not annotate his period of continuous Honorable service and requires correction.

Notwithstanding the recommended corrective action below, the Board found no error or injustice in Petitioner's NJP for drug abuse or OTH characterization of service discharge for separation for misconduct due to drug abuse. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with references (b) through (d).

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that his misconduct, as evidenced by his NJP for drug abuse, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the fact it involved a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service and insufficient evidence to attribute his misconduct to PTSD. As explained in the AO, Petitioner provided no medical evidence in support of his claim. Finally, the Board also noted that Petitioner now contends that he had reported marijuana use to his chain of command in order to "get out of the Navy." The Board determined that if Petitioner had, in fact, falsely reported marijuana use, he should not now benefit from his deception by receiving an upgraded characterization of service and reinstatement of his pre-NJP rank.

As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting him the relief he requested or granting relief as a matter of clemency or equity.

RECOMMENDATION

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 13 December 1996, correcting Block 18, "Remarks" to indicate "CONTINUOUS HONORABLE ACTIVE SERVICE FROM 891025 UNTIL 951023."

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

That a copy of this report of proceedings be filed in Petitioner's naval record.

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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.

8/26/2024

