



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

█
Docket No. 2017-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
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Ref: (a) 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 17 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Advisory opinion of 12 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 his discharge be upgraded.

2. The Board consisting of █, reviewed Petitioner's allegations of error and injustice on 16 September 2024 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, and applicable statutes, regulations, and policies including references (b) through (e). In addition, the Board considered enclosure (3), an advisory opinion (AO) 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 regulations within the Department of the Navy. Although Petitioner did not file his application in a timely manner, the statute of limitations was waived in accordance with the Kurta memo.

b. Petitioner enlisted in the Navy and began a period of active duty on 19 June 1987.

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c. On 8 December 1987, Petitioner received nonjudicial punishment (NJP) for unauthorized absence and was issued administrative remarks documenting his infraction, retaining him in the naval service, and advising him that subsequent violation(s) of the UCMJ or conduct resulting in civilian conviction could result in an administrative separation under Other Than Honorable conditions.

d. On 14 January 1988, he received a second NJP for failing to obey a lawful order by consuming alcohol while underage and for being drunk on duty.

e. On 30 September 1988, Petitioner was provided with a psychiatric discharge care plan and summary, documenting his diagnoses of alcohol dependence, adjustment disorder, and depression. His condition was also noted to include personality disorder (not otherwise specified) with dependent, histrionic, and immature features. It was further recommended that he undergo Level III alcohol rehabilitation at the Department of Veterans Affairs Alcohol Rehabilitation Center.

f. Unfortunately, the documents related to Petitioner's administrative separation are not in his official military personnel file (OMPF). In this regard, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary (as is the case at present), will presume that they have properly discharged their official duties. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that he was separated from the Navy on 21 October 1988 with a General (Under Honorable Conditions) (GEN) characterization of service, his narrative reason for separation is "Other Physical/Mental Conditions – Personality Disorders," his separation code is "JFK," and his reenlistment code is "RE-4."

g. Petitioner contends the following injustices warrant relief:

(1) He incurred PTSD and other mental health concerns during military service. Specifically, he was diagnosed with personality disorder and received a GEN discharge;

(2) Although he had no prior emotional issues before joining the Navy, he was a victim of childhood sexual abuse;

(3) He believes that witnessing the aftermath of two suicides, the death of a man crushed by a dumpster, the pressures of his training, and the lack of a support system all contributed to his deteriorating emotional state;

(4) In response, he began self-medicating with alcohol and faced multiple Captain's Mast proceedings;

(5) He further notes that after being discharged from Portsmouth Naval Hospital due to mental health concerns, he was not offered follow-up treatment and was subsequently discharged.

h. For purposes of clemency and equity consideration, the Board noted Petitioner provided two personal statements, course completion certificates, a motorcycle technology center transcript and diploma, character letters, and medical documents.

i. Based on Petitioner assertions that he incurred PTSD and other mental health concerns during military service, which may have contributed to the circumstances of his separation, the Board considered enclosure (3). The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during a psychiatric hospitalization. His personality disorder and other 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. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. Temporally remote to his military service, he has received diagnoses of other mental health conditions that appear to be unrelated to his service. His in-service misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service. 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, "based on the available evidence, it is my clinical opinion there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition, other than personality disorder."

CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, in keeping with the letter and spirit of the Wilkie Memo, 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 Petitioner's discharge should not be labeled as being for a mental health-related condition and that certain remedial administrative changes are warranted to the DD Form 214.

Regarding Petitioner's request for a discharge upgrade and change to his reentry code, because Petitioner based his claim for relief in whole or in part upon his PTSD and other mental health conditions, the Board reviewed his application in accordance with the guidance of references (b) through (e). Accordingly, the Board applied liberal consideration to Petitioner's claimed PTSD and other mental health concerns and the effect that it may have had upon his misconduct.

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After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and found that his conduct showed a complete disregard for military authority and regulations. Further, the Board substantially agreed with the AO that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service or his misconduct. Additionally, the Board noted Petitioner was provided an opportunity to correct his conduct deficiencies but chose to continue to commit misconduct. Finally, the Board determined that an Honorable discharge was appropriate only if the service member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate.

As a result, the Board concluded significant negative aspects of the Petitioner's conduct outweighed the positive aspects of his military record and continues to warrant a GEN characterization. While the Board carefully considered the evidence Petitioner submitted in mitigation, 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 Petitioner the relief he requested or granting the requested relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence Petitioner provided was insufficient to outweigh the seriousness of his misconduct. Furthermore, the Board determined Petitioner's reentry code remains appropriate in light of his misconduct and unsuitability for further military service.

RECOMMENDATION:

In view of the above, the Board directs the following corrective action:

Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) reflecting that, for the period ending 21 October 1988, Petitioner's narrative reason for separation was "Secretary Plenary Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 3630900."

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 Regulations, Section 723.6(e)), and

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[REDACTED]

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.

10/3/2024

[REDACTED]