



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

█
Docket No. 2697-24
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 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 with attachments
(2) Naval record (excerpts)
(3) Advisory Opinion of 1 Aug 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 an upgrade of his characterization of service.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 23 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) and (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 limitation was waived in accordance with the Kurta Memo.

b. Petitioner enlisted in the Marine Corps and began a period of active duty on 17 August 1999. Upon his enlistment, Petitioner admitted preservice use of marijuana.

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[REDACTED]

c. Petitioner requested to be assigned to a Marine Reserve unit closer to his home of record. Subsequently, on 10 November 1999, his request was denied since he was currently within reasonable commuting distance.

d. On 3 December 1999, Petitioner was counseled concerning his failure to obey instructions by his commanding officer and squad instructors by wearing layers on a hike and failing to eat chow as directed. This possibly led to him becoming a heat casualty during the first two miles of the hike. Petitioner was advised that failure to take corrective action could result in administrative separation.

e. On 6 December 1999, Petitioner was evaluated by a medical officer as a result of his dissatisfaction with the Marine Corps, suicidal ideations, poor sleep, appetite, and violent nightmares. Consequently, Petitioner was diagnosed with a Personality Disorder, NOS with Passive Aggressive Features and recommended for administrative separation.

f. On 14 December 1999, a Separation Medical Examination documented a number of Petitioner's self-proclaimed medical conditions that included suicide attempts or plans, shortness of breath, frequent trouble sleeping, and depression or excessive worry.

g. On 15 December 1999, Petitioner was counseled concerning his diagnosis of personality disorder that hinders his ability to train. Subsequently, he was advised of his conditions and administrative separation.

h. On 17 December 1999, Petitioner was notified of the initiation of administrative separation proceedings by reason of convenience of the government due to personality disorder. On the same date, the commanding officer for Headquarters and Support Battalion recommended that Petitioner be administratively separated from the Marine Corps with an Uncharacterized characterization of service by reason of convenience of the government due to personality disorder.

i. On 20 December 1999, Petitioner decided to waive his right to consult with counsel. On the same date, the commanding officer for the School of Infantry recommended that Petitioner be administratively separated from the Marine Corps with an Uncharacterized discharge characterization by reason of convenience of the government due to personality disorder.

j. On 18 January 2000, the separation authority approved the recommendation and ordered that Petitioner be administratively separated from service with an Uncharacterized discharge characterization by reason of convenience of the government due to personality disorder.

k. On 8 February 2000, Petitioner was so discharged.

l. Petitioner contends his discharge was connected to a mental health condition, as he was diagnosed with Borderline Personality Disorder. Petitioner asserts that, while at the rifle range, the face of a young, foreign child appeared on the target he had his M16 trained on. Immediately after firing a bullet, their head exploded viscerally and he claims to have attempted suicide later that week. Although he wanted to serve his country, Petitioner states his adverse

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mental health prevented that from happening. The only solace Petitioner can draw from this is that his separation took place before his mental health was further deteriorated by combat. However, Petitioner contends he is still haunted by his less than Honorable status. Petitioner states he have received therapy for over 20 years, which have resulted in him been able to process his feelings of shame and gain greater sense of self-acceptance and understanding. Petitioner have learned how to cope and gained insight into his past experiences. Petitioner further claims, apart of learning about concepts such as Adverse Childhood Experiences and PTSD (both of which he has), he also learned how they affected his responses during combat training, which may have been more evident on the battlefield. Petitioner contends that he has initiated past conversations with a co-worker about his time in the military. His co-worker had a son who died by suicide. Petitioner states such conversations brought a sense of connection and support. A correction to his discharge would be the final step in this healing process.

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

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His personality 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. 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. Unfortunately, he has provided no medical evidence to support his claims of another mental health condition. The circumstances of his separation from service appear 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, "it is my clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute the circumstances of his separation to a mental health condition, other than personality disorder."

CONCLUSION:

Upon review and consideration of the evidence of record, the Board determined Petitioner's request warrants partial relief.

In keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, 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

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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.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's uncharacterized entry level separation remains appropriate. Service regulations direct the assignment of an uncharacterized entry level separation when a service member is processed for separation within their first 180 days. Petitioner was notified of administrative separation processing within his first 180 days of active duty. While there are exceptions in cases involving misconduct or extraordinary performance, the Board determined neither applied in Petitioner's case. In making this finding, the Board substantially agreed with the AO in that there is insufficient evidence of a diagnosis of a mental health condition, other than his Personality Disorder, that may be attributed to military service. Finally, the Board determined that 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 above, the Board directs the following corrective action:

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214), for the period ending 2 February 2000, reflecting that his narrative reason for separation was "Secretarial Authority," the SPD code was "JFF1," and the separation authority as "MARCORPSEPMAN 6214."

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 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.

10/21/2024

