



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

█  
Docket No. 3494-24

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) USD Memo of 25 August 2017 (Kurta Memo)  
(d) USECDEF Memo of 25 July 2018 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments  
(2) Case summary

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 naval record be corrected to upgrade his characterization of service and to make other conforming changes to his DD Form 214.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 4 October 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, and applicable statutes, regulations, and policies, to include references (b) through (d). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider. 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.

b. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

c. The Petitioner enlisted in the U.S. Marine Corps and began a period of active service on 6 January 1997.

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[REDACTED]

d. On 9 January 1997, the Marine Corps Recruit Depot Branch Medical Clinic (BMC) determined that Petitioner did not meet the minimum standard for enlistment because of chronic drainage from cystic lesions (chronic furunculosis) that existed prior to entry (EPTE). The BMC concluded that Petitioner's present condition was "not physically qualified" in accordance with the physical standards for enlistment, and also noted that Petitioner's condition was unlikely to change in the future. The BMC recommended Petitioner for an administrative entry level separation (ELS).

e. On 14 January 1997, the Petitioner's command initiated administrative separation proceedings by reason of defective enlistment and induction – erroneous enlistment as evidenced by a preservice medical condition (chronic furunculosis (cystic lesions)). On the same day, Petitioner acknowledged "Page 11" entry in his service record as follows:

I have been counseled and understand I am not recommended for Reenlistment and have been assigned Reenlistment Code RE-3F by reason of Defective Enlistment-ERRONEOUS Enlistment: other (Chronic Furunculosis).

Ultimately, after serving on active duty for just eleven (11) days, on 16 January 1997, Petitioner was discharged from the Marine Corps with an uncharacterized ELS characterization and was assigned an RE-3F reentry code. The Board specifically noted on Petitioner's DD Form 214 that the narrative reason for separation in Block 28 of his DD Form 214 was "Defective Enlistment & Induction-Erroneous CHRONIC FURUNCULOSIS (CYSTIC LESIONS) (without admin discharge board)."

f. The Petitioner contended, in part, that he was sexually assaulted by fellow Marines in his platoon. A licensed clinical psychologist (Ph.D.), reviewed Petitioner's original contentions and the available records and issued an AO on 23 August 2024. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any symptoms of a mental health condition. His statement is not sufficiently detailed to provide a nexus with his misconduct. He did not submit any medical evidence in support of his claim.

The Ph.D.'s AO concluded, "it is my considered clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his [separation] could be attributed to a mental health condition."

#### CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's discharge upgrade request does not warrant relief.

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[REDACTED]

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in accordance with the Hagel, Kurta, and Wilkie Memos. For purposes of clemency and equity consideration, the Board considered the entirety of the evidence Petitioner provided in support of his application.

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to Petitioner's record of service, and his contentions about any traumatic or stressful events he experienced and their possible adverse impact on his service. However, even under the liberal consideration standard, the Board determined that there was no convincing evidence that Petitioner suffered from any type of mental health condition while on active duty, and thus concluded that there was no nexus whatsoever between any purported mental health conditions and/or related symptoms and Petitioner's ultimate discharge for a preexisting medical condition after serving on active duty for only eleven (11) days.

The Board determined that Petitioner's Marine Corps service records and DD Form 214 maintained by the Department of the Navy contained no known errors. The Board determined that Petitioner's medical diagnosis and separation recommendation was clinically and medically appropriate. The Board determined there was no evidence in the record to suggest that Petitioner's active duty diagnosis was erroneous or unjust given his preexisting medical condition rendering him not physically qualified for further service. Based on Petitioner's precise factual situation and circumstances at the time of his discharge, the Board concluded that Petitioner's command was justified in assigning him an ELS and an RE-3F reenry code. Additionally, the Board noted that separations initiated within the first 180 days of continuous active duty will be described as ELS except in those limited cases involving unusual circumstances not applicable in Petitioner's case, or where processing under a more serious basis is appropriate and where characterization of service under Other Than Honorable conditions upon discharge is warranted.

Notwithstanding the discharge upgrade denial, the Board did determine, however, that it would be an injustice to label one's discharge to include his specific medical diagnosis precipitating his erroneous entry separation. Describing Petitioner's erroneous entry discharge and 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 narrative reason for separation should not be labeled with the specific medical condition underlying the erroneous entry discharge, and that certain remedial administrative changes are warranted to the DD Form 214.

#### RECOMMENDATION:

In view of the foregoing, the Board finds the existence of a material error warranting the following corrective action.

That Block 28 of Petitioner's DD Form 214 be changed to read, "Defective Enlistment & Induction – Erroneous Enlistment."

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[REDACTED]

That Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215), for the period ending 16 January 1997, reflecting such change to Box 28.

Following the correction to the DD-214 for the period ending 16 January 1997, that all other information currently listed on such DD-214 remain the same.

That 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

