

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

d. On 30 May 2002, Petitioner received non-judicial punishment (NJP) for assault, and drunk and disorderly conduct.

e. On 4 October 2002, Petitioner received NJP for disrespect toward a superior commissioned officer.

f. Consequently, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense, and that the least favorable characterization of service possible that he may receive is a General (Under Honorable Conditions) (GEN). Petitioner waived his right to consult with counsel, and to present his case to an administrative discharge board.

g. The separation authority directed Petitioner's GEN discharge from the Navy by reason of misconduct due to commission of a serious offense and, on 15 January 2003, Petitioner was so discharged.

h. Petitioner contends the following injustices warranting relief:

(1) The Department of Veterans Affairs' (VA) recognition of his bipolar disorder as 100% permanent and total service-connected disability;

(2) He was not provided treatment during his service despite his request;

(3) His discharge characterized as misconduct is an injustice as it fails to acknowledge the underlying circumstances of his service-connected mental health condition and the subsequent denial of appropriate behavioral health treatment during his service tenure; and

(4) He experienced significant challenges related to his mental health; he was discharged without being provided the necessary support and treatment.

i. For purposes of clemency and equity consideration, the Board considered the documentation Petitioner provided in support of his application.

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

He submitted VA compensation and pension noting 100% service-connection for Bipolar Disorder in November 2023. He submitted VA Disability and Benefits Questionnaire (DBQ) dated January 2024 which notes diagnoses of Bipolar I Disorder, Severe, with Psychotic Features, and Alcohol Use Disorder, Severe, in sustained remission. He submitted outpatient psychiatric records from the VA dated March and April of 2024. Finally, he submitted post service accomplishments and letters of recommendation/appreciation.

Although there is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, it is possible that he was suffering from

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prodromal symptoms of Bipolar Disorder. Alcohol Use Disorder is a common comorbid diagnosis with Bipolar Disorder, and symptoms of poor impulse control and judgment are also common symptoms of Bipolar Disorder. There is evidence that the Petitioner asked for substance abuse treatment in 2003; it is unknown whether he was ever evaluated for substance abuse/dependence, as there are no records thereof as contained within his available service file.

The AO concluded, "it is my considered clinical opinion there is sufficient evidence of a mental health condition that may have been exacerbated by service. There is sufficient evidence that his misconduct could be attributed to a mental health condition."

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief in the interests of justice.

The Board found no error in Petitioner's GEN characterization of service discharge for misconduct due to commission of a serious offense. However, because Petitioner based his claim for relief in whole or in part upon his mental health condition (MHC), the Board reviewed his application in accordance with the guidance of references (b) through (e). The Board applied liberal consideration to Petitioner's MHC experience and the effect that it may have had upon his misconduct. Ultimately, the Board agreed with the AO conclusion that there is sufficient evidence of a mental health condition that may have been exacerbated by service and there is sufficient evidence that his misconduct could be attributed to a mental health condition.

In applying liberal consideration to Petitioner's claimed MHC any effect that it may have had upon his misconduct; the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice. In this regard, the Board considered, among other factors, the mitigating effect of Petitioner's MHC may have had upon his misconduct. After thorough review, the Board found that Petitioner's MHC did have an effect on his misconduct and the mitigating circumstances of his MHC outweighed the misconduct for which Petitioner was discharged. Therefore, the Board determined the interests of justice are served by upgrading Petitioner's characterization of service to Honorable and changing his reason for separation to reflect a Secretarial Authority discharge.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned reentry code remains appropriate in light of his unsuitability for further military service. Further, the Board found insufficient evidence Petitioner was unfit for continued naval service as a result of bipolar disorder. The Board observed that Petitioner was discharged as a result of his misconduct and not diagnosed with a qualifying disability condition or referred to a medical board as a result of an inability to perform the duties of his office, grade, rank or rating.

Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, on 15 January 2003, Petitioner's characterization of service was "Honorable," narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 1910-164."

That no further correction action be taken on Petitioner's naval record.

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

4. It is certified that 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.

11/13/2024

[REDACTED]