

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC

d. On 16 July 1990, Petitioner received a mental health evaluation and was diagnosed with a schizotypal personality disorder. Upon his release from care, Petitioner was deemed fit for duty and responsible for his actions.

e. On 7 September 1990, Petitioner was issued an administrative remarks (Page 11) counseling concerning his failure to obey orders or regulations, lack of initiative, motivation, general performance of regular duties and, financial responsibilities regarding a dishonored check.

f. On 27 September 1990, Petitioner was issued a Page 11 counseling concerning an impaired interpersonal relationship, disturbed attitudes and, personality disorder as exhibited by consistent substandard performance of duties and conduct.

g. On 28 September 1990, Petitioner received non-judicial punishment (NJP) for violation of a lawful written order by wearing an earring and uttering a worthless check.

h. Subsequently, Petitioner was notified that he was being recommended for administrative discharge from the Marine Corps by reason of convenience of the government as evidenced by his diagnosed personality disorder. Petitioner was advised of and waived his procedural right to consult with military counsel.

i. The separation authority directed Petitioner's administrative discharge from the Marine Corps with a General (Under Honorable Conditions) (GEN) character of service by reason of convenience of the government due to a diagnosed personality disorder and, on 28 December 1990, Petitioner was so discharged.

j. Petitioner contends the following injustices warranting relief:

(1) His childhood mental health concerns were exacerbated from military stressors, including medical concerns and harassment by his unit;

(2) He was transformed from being a proud gung-ho Marine with two meritorious awards to an empty shell of a human being whose psyche was buried beneath years' worth of depression, anxiety, disparagement, and low self-esteem; and

(3) He was coerced to accept the outcome of the legal proceedings to which he disagreed with and did not contest the directives of his command due to predictable retribution that he felt he would receive.

k. For purposes of clemency and equity consideration, the Board considered the evidence Petitioner submitted in support of his application.

l. 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:

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Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated on multiple occasions, including during an inpatient hospitalization. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, the psychological evaluations performed by the mental health clinicians, and his pre-service history of the diagnosis.

It is reasonable that his chronic medical concerns in service, as well as purported mistreatment by his command, may have exacerbated pre-service problematic characterological traits. It is possible that disobedience could be attributed to apathy related to pre-service chronic depressive symptoms that may have returned in-service. Chronic depressive symptoms may have been undiagnosed in service, given the Petitioner's significant comorbid personality disorder symptoms.

It is difficult to attribute financial mismanagement to a mental health condition. 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 that there is pre-service evidence of mental health conditions that may have been exacerbated during military service. There is insufficient evidence to attribute his misconduct solely 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 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 personality 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. The Board determined 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. Accordingly, the Board concluded that Petitioner's narrative reason for separation, separation code and, separation authority should be changed to reflect a Secretarial Authority discharge in the interests of justice to minimize the likelihood of negative inferences being drawn from his naval service in the future. However, the Board concluded Petitioner's reentry code should remain unchanged based on Petitioner's unsuitability for further military service due to his diagnosed mental health condition.

With regard to Petitioner's request for a discharge upgrade, 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 (e). These included, but were not limited to, Petitioner's desire to upgrade his discharge character of service and the previously mentioned contentions raised by Petitioner in his application.

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After thorough review, the Board concluded that Petitioner's potentially mitigating factors were insufficient to warrant relief. The Board concurred with the AO that, while there is pre-service evidence of mental health conditions that may have been exacerbated during military service, there is insufficient evidence to attribute Petitioner's misconduct solely to a mental health condition. As the AO explained, Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated on multiple occasions. Further, the Board agreed that the nature of Petitioner's misconduct difficult to attribute to a mental health condition.

Therefore, the Board found that the discharge was proper and equitable. Even in light of references (b) through (e) 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 determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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) reflecting that, for the period ending 28 December 1990, Petitioner's narrative reason for separation was "Determination of Service Secretary – Secretary of the Navy Plenary Authority," the SPD code assigned was "JFF1," and the separation authority was "MARCORSEPMAN Par 6214."

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.

12/18/2024

