



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

[REDACTED]  
Docket No. 6532-24

Ref: Signature Date

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

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

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 w/ enclosures  
(2) Advisory Opinion (AO) of 9 Oct 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 that his discharge be upgraded to "Honorable" and his narrative reason for separation be changed to "Secretarial Authority." Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 13 December 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, applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board considered enclosure (2), an advisory opinion (AO) furnished by qualified mental health provider and Petitioner's response to the AO.

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.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED], USN, XXX-XX-[REDACTED]

b. Petitioner enlisted in the Navy and began a period of active duty on 20 September 2000. He received a waiver for pre-service marijuana involvement and civil charges to include two non-minor misdemeanors for possession of a controlled substance.

c. Petitioner served for over three years without incident; during which he received a personal award of the Navy and Marine Corps Achievement Medal.

d. On 17 December 2003, Petitioner was notified of processing for administrative separation by reason of misconduct due to drug abuse. He elected to waive his right to a hearing before an administrative separation board and was recommended for discharge under Other Than Honorable (OTH) conditions.

e. Although Petitioner's separation was approved by Commander, [REDACTED], on 22 December 2003, he was not discharged until 1 July 2004. Prior to his discharge, he was subject to nonjudicial punishment (NJP) for a single violation of the Uniform Code of Military Justice (UCMJ) under Article 121 for larceny or wrongful appropriation.

f. Petitioner contends that he was a hard worker during his service and believes he performed well. He states, however, that he experienced considerable racism and provided a letter of support which addresses his treatment. He further alleges that he was not provided support from his chain of command, even after reporting several incidents, and felt that he was treated unfairly. As a result, over time, he began to experience depression and anxiety, struggling to cope with the maltreatment. He states that this hostile environment worsened after he continued to have trouble passing his tests and remained unrated, with people calling him stupid or dumb. He claims that he made the mistake of smoking marijuana to cope with his problems and failed a urinalysis, which resulted in his discharge. He wishes, if he could go back in time, that he would have tried harder to cope with how he was treated so that he could have completed his service honorably.

g. Since his discharge, Petitioner has rehabilitated his substance abuse, has worked toward maintaining a sober life, and has received treatment for his mental health issues, to include post-traumatic stress disorder (PTSD), bipolar type 2, depression, ADHD, impulse control and anxiety. He states that his medications help him remain balanced, and he also relies on meditation and his prayer to help him cope now. In support of his contentions and for the purpose of clemency and equity consideration, he provided a personal statement, post-service psychiatry records and treatment summaries, diplomas, two character letters, and a letter from his sponsor at Alcoholics Anonymous.

h. Because Petitioner contends that a mental health condition affected the circumstances of the misconduct which resulted in his discharge, the Board requested the AO at enclosure (2) for consideration. The AO states in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. The record contains behavioral evidence of a possible substance use disorder, but no formal diagnosis.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USN, XXX-XX [REDACTED]

Temporally remote to his military service, he has received evaluation and treatment of mental health diagnoses that appear related to contemporary marital and financial stressors, rather than his military service. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given pre-service use and post-service statement. Additionally, it is difficult to attribute larceny to a mental health condition. His PTSD diagnosis appears related to childhood trauma, rather than military service, and appears to have onset after his discharge from 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 that 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."

In response to the AO, Petitioner submitted rebuttal evidence in support of his case. After reviewing the rebuttal evidence, the AO remained unchanged.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. The Board reviewed the application under the guidance provided in references (b) through (e).

The Board noted Petitioner's misconduct and does not condone it; additionally, the Board found no error with Petitioner's administrative discharge or his assigned characterization of service. Further, the Board concurred with the clinical conclusion that there is insufficient evidence to attribute Petitioner's misconduct to PTSD or another mental health condition, given the evidence relating to the origin and timing of onset of his current mental health conditions. However, the Board noted that Petitioner served honorably, to include recognition in the form of a personal award, for more than three years, his remorse appears genuine, his personal statement and supporting letter reasonably relate his experience of a racially hostile work environment, and he has substantially rehabilitated his substance abuse which resulted in his discharge. Therefore, the Board found that the favorable factors Petitioner submitted for consideration of clemency sufficiently outweighed the misconduct evidenced by positive urinalysis and single NJP. Accordingly, the Board determined that it is in the interest of justice, purely as a matter of clemency, to upgrade Petitioner's characterization of service to General (Under Honorable Conditions) and change his narrative reason for separation, separation authority, and separation code to reflect a Secretarial Authority discharge.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USN, XXX-XX-[REDACTED]

aspects of his military record, even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Additionally, the Board determined 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 foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending 1 July 2004, he was discharged with an "General (Under Honorable Conditions)" characterization of service, under the separation authority of "MILPERSMAN 1900-164," for the narrative reason of "Secretarial Authority," with a "JFF" separation code.

That 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 Regulation, 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.

1/12/2025

