



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

██████████
Docket No. 6710-24
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER ██████████, USN,
██████████

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo, 3 Sep 14 (Hagel Memo)
(c) PDUSD Memo, 24 Feb 16 (Carson Memo)
(d) USD Memo, 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion dated 4 November 2024

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Navy filed enclosure (1) with this Board requesting that his discharge be upgraded to Honorable. Enclosures (2) through (4) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 5 February 2025 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 (e). Additionally, the Board also considered enclosure (4); an advisory opinion (AO) from a qualified mental health professional. Although Petitioner was provided an opportunity to comment on 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.

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c. Petitioner enlisted and commenced a period of active duty with the Navy on 10 April 1995. On 20 August 1996, he received non-judicial punishment (NJP) for unauthorized absence and missing ship's movement

d. Unfortunately, the documents pertinent to Petitioner's administrative separation are not in his official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that he was separated from the Navy on 30 August 1996 with a General (Under Honorable Conditions) (GEN) characterization of service, his narrative reason for separation is "Personality Disorder," his separation code is "JFX," and his reenlistment code is "RE-4."

e. In his application, Petitioner asserts that he incurred a mental health condition during military service due to undiagnosed depression and his depression is the cause of his separation from the Navy. For the purpose of clemency and equity consideration, Petitioner provided evidence of post-service diagnosis of depression.

f. Based on Petitioner's assertion of having mental health issues, enclosure (4) was requested and reviewed. It stated in pertinent part:

There is no evidence that Petitioner was diagnosed with a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. His DD214 notes "Personality Disorder" as the reason for separation, however there are no corresponding medical or mental health records that reference this as contained within his available service record. He has provided one post-service diagnostic summary noting Major Depression Disorder; however, there are no supporting documents to review etiology or rationale for the diagnosis. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his requested change for narrative reason for separation. Additional records (e.g., active duty medical records, post-service medical health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) would aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his rationale for separation to a mental health condition."

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, in keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, the Board determined that it would be an injustice to continue to characterize Petitioner narrative reason for separation as "Personality Disorder." Describing Petitioner's service in this manner attaches a considerable negative and unnecessary

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stigma, and fundamental fairness and medical privacy concerns dictate a change. Accordingly, the Board concluded that certain remedial administrative changes are warranted to his DD Form 214.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned characterization of service remains appropriate. The Board carefully considered all potentially mitigating factors to determine whether the interest of justice warrant relief in Petitioner's case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, his desire for a discharge upgrade and previously discussed contention.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the likely negative effect it had on the good order and discipline of his unit. Further, the Board concurred with the AO that there is insufficient evidence to attribute his rationale for separation to a mental health condition. As explained in the AO, Petitioner's medical evidence did not include supporting documents to review etiology or rationale for his diagnosis. Therefore, the Board determined that the evidence of record did not demonstrate that Petitioner was not mentally responsible for his conduct or that he should not be held accountable for his actions.

As a result, while the Board carefully considered the evidence Petitioner submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos 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.

Finally, the Board concluded that Petitioner's reentry code remain appropriate based on his unsuitability for further military service. Ultimately, the Board determined 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) that shows that, for the period ending 30 August 1996, his narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 1910-164."

That no further changes be made to the record.

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

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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.

3/4/2025

