



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

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Docket No. 6851-24

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ■■■■■, USN,
XXX-XX-■■■■■

Ref: (a) Title 10 U.S.C. §1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USECDEF Memo of 25 Aug 2017 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments
(2) Naval record (excerpts)
(3) Advisory opinion of 31 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 for an upgrade of his characterization of service.

2. The Board, consisting of ■■■■■, ■■■■■, and ■■■■■, reviewed Petitioner's allegations of error and injustice on 11 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). The Board also considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional. 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 regulation 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. Petitioner enlisted in the Navy and began a period of active duty on 26 June 1969.

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d. On 3 February 1971, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA) and wrongfully have in his possession an altered Armed Forces identification card.

e. On 4 May 1971, Petitioner received a mental health evaluation and was diagnosed with passive-aggressive personality disorder.

f. On 21 June 1971, Petitioner submitted a written request for separation for the good of the service (GOS) in lieu of trial by court-martial. Petitioner's offenses consisted of three specifications of UA totaling 65 days and breaking restriction. Prior to submitting this request, Petitioner conferred with a military lawyer at which time Petitioner was advised of his rights and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, Petitioner admitted his guilt to the foregoing offenses and acknowledged that his characterization of service upon discharge would be Under Other Than Honorable (OTH) Conditions.

g. The separation authority approved Petitioner's request and directed his commanding officer to discharge him with an OTH characterization of service. Petitioner was so discharged on 16 July 1971.

h. Petitioner contends the following injustices warranting relief:

(1) He incurred mental health concerns from the grief of the death of his grandfather in service, which contributed to his misconduct,

(2) When he returned from his period of leave, he had a hard time adjusting, he was worried about his grandmother and concerned that he was not able to help her back home and keep up with the Navy,

(3) He was not in his right mind after the passing of his grandfather, he felt isolated and alone, and

(4) Since his discharge he has been diagnosed with depression and addiction and feels that if there were mental health treatment years ago in the service, his character of discharge would have at least been Honorable.

i. For purposes of clemency and equity consideration, Petitioner provided a statement on his behalf, an advocacy letter, and health care documents.

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

During military service, the Petitioner was evaluated and diagnosed with a personality disorder. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is preexisting to military service by

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definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. He has provided no medical evidence in support of his claims. He has provided evidence of treatment of substance use disorder that is temporally remote to his military service and appears unrelated. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms of another 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 insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition, other than personality disorder."

CONCLUSION

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

The Board found no error in Petitioner's OTH characterization of service discharge for GOS in lieu of trial by court martial. However, because Petitioner based his claim for relief in whole or in part upon his PTSD, the Board reviewed his application in accordance with the guidance of references (b) through (e). Even though the Board concurred with the AO that there is insufficient evidence of a mental health condition that may be attributed to military service, and there is insufficient evidence to attribute his misconduct to a mental health condition, other than personality disorder, they also considered the totality of the circumstances to determine whether relief is warranted in the interests of justice, as a matter of clemency, in accordance with reference (e).

In this regard, the Board considered, among other mitigating factors, the severity of misconduct, length of time since misconduct, letter of support, Petitioner's relative youth and immaturity at the time of his misconduct, and the passage of time since Petitioner's discharge. Therefore, the Board determined the interests of justice are served by upgrading Petitioner's characterization of service to General (Under Honorable Conditions) and changing his reason for separation 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 certain negative aspects of the Petitioner's conduct outweighed the positive aspects of his military record even under the liberal consideration standards, and that a General (Under Honorable Conditions) discharge characterization, and no higher, was appropriate. Further, 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.

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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 16 July 1971, Petitioner's characterization of service was "General (Under Honorable Conditions)," narrative reason for separation was "Secretarial Authority," SPD code assigned was "JFF," and 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.

1/10/2025

[REDACTED]