



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

██████████  
Docket No. 7083-24  
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,  
██████████

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 with attachments  
(2) Case summary  
(3) Subject's naval record (excerpts)  
(4) Advisory Opinion of 21 Nov 24

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting upgrade of his discharge characterization of service with corresponding corrections to his narrative reason for discharge and service credit to allow him to become eligible for retirement benefits. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 21 January 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 considered enclosure (4), 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.

b. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

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

c. Petitioner enlisted in the Navy and began a period of active service on 16 March 1994. After periods of continuous Honorable service that included multiple reenlistments, he commenced his last period of active duty on 10 May 2011<sup>1</sup>.

d. On 12 April 2012, Petitioner received non-judicial punishment (NJP) for larceny by unauthorized use of his government travel card; totaling \$4,066.67.

e. On 13 July 2012, a preliminary inquiry was ordered into the facts and circumstances surrounding Petitioner's alleged falsification of military orders in November 2011. The inquiry resulted in a finding that Petitioner committed fraud by generating false orders meant to deceive [REDACTED], a civilian employer, into thinking he was a reservist so they would continue to pay him while he was mobilized. The inquiry further resulted in a recommendation, due to significant evidence of fraud, that Petitioner be sent to a Disciplinary Review Board, Chief Staff Officer's Inquiry, and non-judicial punishment. Lastly, because Petitioner committed acts that rendered him untrustworthy, it was recommended Petitioner be relieved from his post for cause.

f. On 24 August 2012, Petitioner was notified of administrative separation processing by reason of misconduct – commission of a serious offense. He elected all rights available to him in the process including the right to appear before an Administrative Discharge Board (ADB). The ADB was held on 10 October 2012 and resulted in a unanimous vote that Petitioner had committed misconduct. He was recommended for separation with a General (Under Honorable Conditions) (GEN) characterization of service; however, by a vote of two to one, the ADB further recommended the separation be suspended for a period of 18 months.

g. On 15 January 2013, Petitioner's commanding officer (CO) stated he could not endorse any suspension of separation and recommended immediate separation, stating, "[Petitioner] was entrusted with numerous responsibilities that accompany his rank and position. He was required to set an example at all times. During his NJP of 12 April 2012, he assured the command of his rehabilitative potential, however, the fraudulent and unethical conduct took place subsequent to that NJP and is confirmation that he failed to change his unscrupulous behavior and uphold the Navy's Core Values." On 24 October 2013, in accordance with his CO's recommendation, Petitioner was discharged. Upon his discharge, Petitioner was issued a DD Form 214 that did not annotate his period of continuous Honorable service from 16 March 1994 to 9 May 2011.

h. Petitioner contends he was unjustly separated from the Navy after 19 years and 7 months of service; which included multiple combat deployments as an Intelligence Officer. He stated his documented PTSD, depression, anxiety disorder, alcohol abuse, and extreme financial difficulties resulted in misconduct and an ADB voted to suspend his separation in order to allow retirement. He stated, three months into the suspended separation, he was notified the suspension was revoked and he was immediately separated. He contends the Commander and CNP violated the separation procedures in failing to provide him with the required mental health evaluation prior to separation. In support of his application, he provided a legal brief with enclosures.

---

<sup>1</sup> The Board relied upon Petitioner's commanding officer's letter of 15 January 2013 to determine his last enlistment period commenced on 10 May 2011.

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

i. As part of the Board's review, the Board considered enclosure (4) and the Petitioner's response. The AO states in pertinent part:

There is evidence that the Petitioner was diagnosed with a mental health condition during his military service. He carries post-service evidence of PTSD; however, although it is possible that the Petitioner did suffer from PTSD during service, the nature and severity of his misconduct (larceny and fraud) is not typical of one who suffers from PTSD. Additional records (e.g., active duty medical records, post-service mental 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 sufficient evidence of a mental health condition that existed during service. There is insufficient evidence to attribute his misconduct to a mental health condition."

In response to the AO, Petitioner provided documentation that supplied additional clarification of the circumstances of his case. Upon review of the rebuttal evidence, the AO remained unchanged.

## CONCLUSION

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

As discussed above, the Board noted Petitioner's DD Form 214 does not annotate his continuous Honorable service for the period of 16 March 1994 to 9 May 2011 and requires correction.

Notwithstanding the recommended corrective action below, the Board determined no further relief was merited. The Board carefully considered all potentially mitigating factors to determine whether the interests 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, a change to his reason for separation, and service credit. The Board also considered the previously discussed contentions raised by Petitioner.

After thorough review, the Board concluded his potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined Petitioner's misconduct, as evidenced by his NJP for larceny, outweighed these mitigating factors. In making this finding, the Board considered the serious nature of Petitioner's fraud; particularly given the trust and responsibility afforded him as a senior enlisted member of his command. The Board opined such conduct, duplicitous to both the Navy and a civilian employer, was and remains inexcusable. The Board additionally noted, as Petitioner's CO articulated, that Petitioner was given an opportunity to act honorably and worthy of the trust afforded him; but chose to commit fraud. In doing so, the Board opined, Petitioner appropriately lost his opportunity to earn a Navy retirement. Additionally, the Board concurred with the AO and determined that, although there is sufficient evidence of a mental health condition that existed during service, there is insufficient evidence to

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

attribute Petitioner's misconduct to a mental health condition. As the AO noted, the nature and severity of his misconduct—larceny and fraud—is not typical of one who suffers from PTSD. Lastly, regarding Petitioner's contention that the Commander and CNP violated the separation procedures in failing to provide him with the required mental health evaluation prior to separation, in absence of evidence to the contrary, the Board relies on the 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. The Board determined Petitioner's evidence was insufficient to overcome the presumption of regularity in his case.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence submitted, 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 the requested relief or granting the requested relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence provided was insufficient to outweigh the seriousness of Petitioner's misconduct.

In view of the above, the Board recommends the following corrective action.

#### RECOMMENDATION

That Petitioner be issued a DD Form 215, for the period ending 24 October 2013, documenting "Continuous Honorable service for the period of 16 March 1994 to 9 May 2011."

That no further changes be made to Petitioner's record.

That 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.

2/26/2025

