



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

██████████
Docket No. 7693-24
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) Official Military Personnel Folder (OMPF)

Encl: (1) DD Form 149 w/attachments

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), Petitioner requested that his prior petition to this Board be reconsidered that he be granted (1) a service disability retirement, and (2) to be awarded the GWOT expeditionary medal and the military outstanding volunteer medal.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 23 January 2025 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of Petitioner's application, enclosure (1), together with all material submitted in support thereof, relevant portions of Petitioner's reference (b) naval record, and applicable statutes, regulations, and policies

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, except with respect to his request for the award of certain medals, for which he did not exhaust available remedies. Although Petitioner's application was not filed in a timely manner, the Board waived the statute of limitations in the interest of justice and considered the case on its merits.

b. A review of reference (b), reveals that Petitioner enlisted in the Navy and commenced active duty on 31 July 2001. On 27 August 2002, Petitioner received nonjudicial punishment for assaulting a superior petty officer and disorderly conduct. On 3 September 2002, he was issued a Page 13 administrative remarks containing a written warning relating to his recent nonjudicial punishment. On 22 December 2003, Petitioner reported to sick-call stating that he needed medication for attention deficient disorder (ADD) and explained that he had been taking Ritalin before joining the Navy. He also stated that disciplinary action was pending and he desired therapy for ADD. He was found not to be suicidal or homicidal, but it was recommended that he

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

be further evaluated. On 3 February 2004, Petitioner was evaluated by a psychiatrist after he cut his wrist; he denied suicidal ideations and was diagnosed with a personality disorder. On 3 February 2004, Petitioner was seen cutting his wrist and was again evaluated by the psychiatry department. Although his complete separation documents are not available, Petitioner's Certificate of Discharge or Release from Active Duty (DD Form 214) reflects that he was discharged on 4 February 2004 due to personality disorder, assigned a General (Under Honorable Conditions) characterization of service, and assigned an RE-4 reentry code.

c. Petitioner filed an application with the Naval Discharge Review Board in 2005 seeking to have his characterization of service changed to Honorable and his separation reason changed to disability. The NDRB considered Petitioner's request on 13 April 2006 and found that no change to Petitioner's discharge was appropriate.

d. In 2006, Petitioner filed a prior petition with this Board. The Board informed Petitioner, by letter dated 28 February 2007, that his requested relief was denied. This Board's denial letter set forth similar facts as described above, and explained:

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and time in service. However, the Board found that these factors were not sufficient to warrant a change in your reenlistment code given the NJP, the diagnosed personality disorder, and your suicidal behavior. An RE-4 reenlistment code is usually assigned under such circumstances. Accordingly, your application has been denied. The Board did not consider whether to upgrade your discharge or change the reason for separation because you did not request such action, and you have not exhausted your administrative remedy by applying to the Naval Discharge Review Board (NDRB). You may apply to NDRB by submitting the attached DD Form 293.

e. Petitioner sought reconsideration of his petition in 2015, which was denied by the Board on 8 April 2016.

f. On 15 November 2022, the VA granted Petitioner permanent and total disability effective 15 January 2016.

g. In his petition, Petitioner requests to be granted a service disability retirement and certain medals and awards. In support of his request, Petitioner contends that he was discharged improperly and the Navy did not admit that he had a disability; but the VA recognized that he had a disability. With respect to his request for certain medals and awards, Petitioner did not provide evidence showing he exhausted his remedies.

CONCLUSION

In its review of the entirety of Petitioner's materials as described above, the Board concluded partial relief was warranted. Specifically, in keeping with the letter and spirit of the current guidance, the Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior and/or adjustment disorder. Describing Petitioner's service

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

in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictate a change. Accordingly, the Board concluded 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.

Notwithstanding the recommended corrective action below, the Board determined Petitioner had no basis for a service disability retirement and denied his request for a service disability retirement. In reaching its decision, the Board observed that it applies 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. In Petitioner's case, the Board acknowledged that he sought mental health treatment while he was in the Navy; which treatment resulted in the diagnosis of Petitioner with a personality disorder and his discharge. The Board further observed that it found nothing in the available documentation contrary to this finding and Petitioner failed to provide sufficient evidence to overcome the presumption of regularity. Further, to the extent Petitioner asserted, or relied upon, his post-service ratings by the VA, to support his contention that he is entitled to a service disability retirement, the fact that the VA may have rated him for disability conditions that it determined were service connected to his time in the service did not persuade the Board these conditions were unfitting at the time of his discharge from the Navy. The Board noted eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. Thus, in light of the foregoing, the Board denied Petitioner's request for a disability retirement as well as back pay that he requested.

Further, the Board found no error with Petitioner's assigned reentry code based on his unsuitability for further military service.

Finally, with respect to Petitioner's request for the award of certain medals or other awards, the Board determined he did not exhaust his administrative remedies, and that he should first seek information and/or relief from the CNO Awards Branch (DNS-35), 2000 Navy Pentagon Washington, DC 20350-2000. Thus, the Board denied this portion of Petitioner's request.

RECOMMENDATION

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

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) reflecting that, for the period ending 4 February 2004, Petitioner's narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 1910-164."

That all other information on Petitioner's DD Form 214 remain the same.

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.

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

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.

2/27/2025

