



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

[REDACTED]  
Docket No. 8140-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
XXX XX [REDACTED] USMC

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), undated

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, his narrative reason for separation and separation code be changed to reflect "Secretarial Authority," and that his reentry code be changed. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 24 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, applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board considered the advisory opinion (AO) furnished by qualified mental health provider, which was considered favorable to Petitioner's mental health contentions.

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.

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b. Petitioner enlisted in the Marine Corps after receiving a drug use waiver and began a period of active duty on 9 May 2005.

c. Petitioner deployed in support of Operation Iraqi Freedom (OIF) for two tours between 13 March 2006 and 2 October 2006 and from 1 August 2007 and 28 February 2008; earning the Combat Action (CAR).

d. During his second deployment, Petitioner was subject to nonjudicial punishment (NJP) for a violation of Article 112 of the Uniform Code of Military Justice (UCMJ) due to wrongful possession and use of the controlled substance of a gas inhalant. He was reduced to the paygrade of private first class / E-2, subject to 60 days of restriction, and required to forfeit \$364 pay per month for two months. He was also issued an administrative counseling advising him that failure to take corrective action could result in judicial proceedings or administrative separation.

e. On 29 May 2008, Petitioner was issued a second administrative counseling advising him to correct his deficiencies with respect to an unauthorized absence (UA) from his company's morning formation.

f. A memorandum from the Substance Abuse Counseling Center (SACC), dated 13 June 2008, indicated that Petitioner had completed level II.5 substance abuse rehabilitation treatment; which included a period of in-patient hospitalization.

g. On 10 July 2008, Petitioner was issued administrative counseling documenting that he had been smoking in an unauthorized area of the barracks, been uncooperative with the duty noncommissioned officer, and urinated on a third deck catwalk.

h. On 14 August 2008, Petitioner received a second NJP for a violation of the UCMJ under Article 121 for the wrongful appropriation and operation of a privately owned vehicle (POV). He was placed into a restricted status with extra duties for a period of 45 days, awarded forfeiture of \$673 pay per month for two months, and reduced to the paygrade of private/E-1.

i. Although his reduction was initially suspended, the suspension was vacated in September 2008 after Petitioner's placement into pre-trial confinement on 14 September 2008.

j. On 6 October 2008, Petitioner requested separation in lieu of trial (SILT) for Article 92, for wrongfully inhaling "Dust Off" with the intent to induce intoxication, Article 112a, for wrongful possession of hydrocodone combination product, a schedule III controlled substance, and, Article 121, for theft of a prescription bottle of hydrocodone/Vicodin pills, the property of another Marine.

k. On 16 October 2008, the commanding officer recommended approval of Petitioner's discharge under Other Than Honorable conditions (OTH). This endorsement noted the recommended OTH characterization of service was appropriate despite Petitioner's combat experience; due to a pattern of misconduct which included substance abuse violations after successfully completing rehabilitation treatment.

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l. Commanding General, 3d Marine Division, approved Petitioner's SILT request and Petitioner was so discharged on 19 November 2008.

m. Petitioner contends that he developed post-traumatic stress disorder (PTSD) during his combat deployments in support of OIF. He states that his deployments included exposure to routine mortar attacks, encountering multiple improvised explosive devices (IEDs), and participating in approximately 15 or 16 direct contact firefights during which he observed both friendly and enemy casualties. He attributes his subsequent misconduct to his self-medicating substance abuse; initially with alcohol and escalating into drug use.

n. Petitioner's former Company Commander provided a highly detailed summary of his unit's operations in Haditha; explaining that his unit had relieved the previous unit which had been accused of killing numerous civilians and which resulted in significantly increased kinetic activity due to anti-American sentiment following that incident. Petitioner also provided several letters from in-service peers attesting to his combat experiences.

o. In support of his contentions of PTSD, Petitioner provided evidence of his diagnoses by the Department of Veterans Affairs (VA), his post-deployment health assessment (PDHA), his SACC records. For the purpose of clemency and equity consideration, Petitioner provided a background check, a letter from his Sheriff, a certificate for rehabilitation, and letters of support which indicate that he has continued to struggle with his rehabilitation largely due to the continued impact of his PTSD symptoms and behaviors.

p. Because Petitioner contends a mental health condition, the Board also requested enclosure (2), the AO, for consideration, which noted that Petitioner was diagnosed with PTSD in August 2010. The AO stated in pertinent part:

There is both in-service and post-service evidence that the Petitioner was diagnosed with a mental health condition (PTSD) during his military service. The Petitioner submitted compelling statements and letters of support describing his kinetic and traumatic deployments to Iraq. It is possible that significant PTSD symptoms led to a psychological need to cope via illegal substances. Although stealing in and of itself is not a common symptom of PTSD, it is possible that stealing a controlled substance as a means to become intoxicated in response to PTSD symptoms could be.

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

#### 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).

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The Board noted Petitioner's misconduct and does not condone it; however, the Board concurred with the AO that Petitioner experienced symptoms and behaviors of PTSD during his military service which appear to have a nexus with a majority of the misconduct which he committed following his initial, highly kinetic combat deployment. Further, the Board observed that Petitioner's letters of support, to include that from his local Sheriff, indicate his continued efforts toward successful rehabilitation. The Board concluded that Petitioner's experience of PTSD, in conjunction with the totality of favorable matters in support of clemency, sufficiently outweighed the misconduct which resulted in Petitioner's separation in lieu of trial under OTH conditions. Therefore, the Board determined it was in the interests of justice to upgrade Petitioner's characterization of service to General (Under Honorable Conditions) and change his narrative 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 that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive 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 found that Petitioner's assigned reentry code remains appropriate in light of his record of misconduct and unsuitability for continued military service. Ultimately, the Board determined 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, for the period ending 19 November 2008, he was assigned a "General (Under Honorable Conditions)" discharge, under the authority of "MARCORSEPMAN par 6214," for the narrative reason of "Secretarial Authority," with a separation code of "JFF1."

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.

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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

