



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

██████████  
Docket No. 8646-24  
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) 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 with attachments  
(2) Case summary  
(3) Subject's naval record (excerpts)  
(4) Advisory Opinion of 11 Dec 24

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting an upgrade of his discharge characterization and corresponding change to his separation code. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 27 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 also considered enclosure (4), the 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.

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c. Petitioner enlisted in the Navy and began a period of active service on 17 May 1979. He received an Honorable (HON) discharge on 27 August 1981 and immediately reenlisted.

d. On 5 August 1982, Petitioner commenced a period of unauthorized absence (UA) that ended with his surrender on 9 August 1982. On 14 March 1984, Petitioner was issued an administrative remarks (Page 13) counseling concerning deficiencies in his performance and/or conduct related to UA. On 5 October 1984, Petitioner again commenced a period of UA that ended with his surrender on 9 October 1984. Consequently, on 14 December 1984, Petitioner received non-judicial punishment (NJP) for (UA).

e. Following NJP, Petitioner told fellow crew members he had overdosed on over the counter (OTC) medication and told the ship's chaplain he was "tired of it all."

f. On 18 December 1984, Petitioner was treated at the emergency room (ER) for homicidal and/or suicidal intentions. He threatened to kill himself by overdose, and was admitted into the psychiatric ward at Naval Hospital [REDACTED]. On 3 January 1985, he was discharged with a diagnosis of Passive Aggressive Personality Disorder; a disorder which is not service disqualifying.

g. On 9 May 1985, Petitioner received NJP for wrongfully possessing an improper identification card.

h. Consequently, Petitioner was notified of pending administrative separation processing with an Other Than Honorable (OTH) characterization by reason of misconduct due to pattern of misconduct. He consulted with counsel and requested an administrative discharge board (ADB). However, before the ADB could be held, Petitioner commenced a period of UA that ended with his surrender on 4 June 1985. The following day, he received NJP for UA.

i. On 17 June 1985, The ADB was held and resulted in a unanimous finding of misconduct with a recommendation for separation with an OTH characterization of service. The following day, Petitioner was taken to the ER for overdosing on OTC medications.

j. On 28 June 1985, Petitioner commenced a period of UA that ended with his surrender on 1 July 1985.

k. On 3 July 1985, Petitioner's commanding officer concurred with the results of the ADB and recommended separation.

l. A naval message dated 8 July 1985, indicated a psychologist had assessed Petitioner and determined him to be psychologically dependent on alcohol. It was also noted that Petitioner was offered treatment but declined.

m. Petitioner's OTH discharge was approved on 17 July 1985 and he was so discharged on 24 July 1985.

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n. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request, on 1 May 1989, based on the determination the discharge was proper as issued.

o. Petitioner contends he was discharged under OTH conditions due to unsatisfactory performance and several NJPs. However, he states he experienced multiple mental health and personal crises during his service that significantly impacted his job performance. These crises included a racially charged incident where he received threatening messages, marital difficulties leading to his wife seeking separation, and suicide attempts. He contends he has documented in-service medical history of mental health issues and all of his NJP's were issued during the period when these crises were unfolding. In light of the Kurta and Hagel memos, which emphasize the consideration of mental health issues in mitigating misconduct, he contends his actions should be reassessed. Additionally, he contends the severity of his misconducts did not outweigh his mitigating excuses and some incidents had valid explanations. For purposes of equity and clemency consideration, he provided a legal brief with exhibits.

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

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated, including during an inpatient hospitalization. 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 pre-existing to military service by 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.

The Petitioner was also diagnosed with an adjustment disorder that resolved prior to discharge from the hospital. Unfortunately, he has provided no medical evidence to support his claims of other mental health concerns.

His in-service misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of another mental health condition incurred in or exacerbated by military service. Furthermore, it is difficult to consider how a mental health condition would account for his misconduct, given his statements in service that his misconduct was inadvertent or due to reprisal. 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 in-service evidence of a mental health condition attributed to military service which resolved during military service. There is insufficient evidence of an on-going mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition."

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In response to the AO, Petitioner provided a legal brief that supplied additional clarification of the circumstances of his case. After reviewing the rebuttal evidence, the AO remained unchanged.

## CONCLUSION

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

In this regard, the Board noted Petitioner's misconduct and does not condone his actions. However, after carefully considering all the evidence, and viewing the record liberally and holistically, the Board felt that Petitioner's mental health condition, identified in the AO as attributable to military service, should partially mitigate the misconduct he committed while on active duty. Therefore, the Board concluded, purely as a matter of clemency and equity, that no useful purpose is served by continuing to characterize the Petitioner's service as having been Other Than Honorable and a re-characterization to General (Under Honorable Conditions) (GEN) is now more appropriate. Further, based on the same rationale, the Board determined his narrative reason for separation should be changed to reflect a Secretarial Authority discharge.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to HON discharge. The Board determined an HON discharge was appropriate only if the member's service was otherwise so meritorious any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of Petitioner's conduct and/or performance outweighed the positive aspects of his military record, and that even under the liberal consideration standards, a GEN characterization, and no higher, was appropriate. Additionally, the Board determined Petitioner's assigned reentry code remains appropriate in light of his unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

## RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 24 July 1985, indicating his character of service as "General (Under Honorable Conditions)," separation authority as "MILPERSMAN 1910-164," separation code as "JFF," and narrative reason for separation as "Secretarial Authority."

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.

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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.

2/26/2025

