



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

[REDACTED]
Docket No: 9346-24
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. §1552
(b) USD (P&R) Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," 25 August 2017
(c) USD (P&R) Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Clemency Determinations," 25 July 2018
(d) NAVPERS 15560A, Naval Military Personnel Manual, 1 January 1982
(e) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214
(3) NAVPERS 1070/605, History of Assignments
(4) NAVPERS 1070/606, Record of Unauthorized Absence, 27 January 1990
(5) Standard Form 508, Progress Notes, 3 March 1990
(6) [REDACTED] CO Memo 1910 Ser 014, subj: Notice of a Notification Procedure Proposed Action in the case of [Petitioner], 19 March 1990
(7) Petitioner's Memo, subj: Statement of Awareness and Request for, or Waiver of, Privileges in the case of [Petitioner], 19 March 1990
(8) [REDACTED] CO Memo 1910 Ser 014/504, subj: [Petitioner]; Recommendation for Separation due to Convenience of the Government, 29 March 1990
(9) NAVPERS 1070/609, Enlisted Performance Record
(10) [REDACTED] Psychological Services Letter, RE: Appeal of [Petitioner], 14 August 2024
(11) BCNR Memo Docket No. 9346-24, subj: Advisory Opinion ICO [Petitioner], 13 January 2025

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, hereinafter referred to as the Board, requesting that his characterization of service be upgraded to honorable.

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2. The Board reviewed Petitioner's allegations of error or injustice on 26 February 2025 and, pursuant to its governing policies and procedures, determined by a majority vote that the corrective action recommended below should be taken on Petitioner's naval record. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record; and applicable statutes, regulations, and policies, to include references (b) and (c).

3. Having reviewed all the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found 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, it is in the interest of justice to waive the statute of limitations and consider Petitioner's application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty service on 3 July 1989. See enclosure (2).

d. On 14 October 1989, Petitioner reported for his first duty assignment aboard the [REDACTED]. See enclosure (3).

e. On 15 January 1990, Petitioner commenced a period of unauthorized absence (UA) from the [REDACTED] which continued until he surrendered himself to military authorities on 19 January 1990.¹ See enclosure (4).

f. On 3 March 1990, Petitioner underwent a psychiatric evaluation which determined that Petitioner manifested a long-standing dependent personality disorder of such severity as to interfere with his ability to serve adequately in the Navy and strongly recommended that he be expeditiously separated from the Navy. See enclosure (5).

g. By memorandum dated 19 March 1990, Petitioner was formally notified via the notification procedures that he was being considered for an administrative separation from the Navy for the convenience of the government due to his severe dependent personality disorder. See enclosure (6).

¹ In enclosure (1), Petitioner explained that he flew to Toledo on stand-by after reaching a mental breaking point, and that he then walked 16 miles to his parent's home. Upon arrival, he reported that he could not bring himself to face his parents and that he hid in the garage until he was discovered by his mother, and that he then checked himself into the psychiatric unit at a local hospital. There is an inconsistency between Petitioner description of the events following this four-day UA and the information contained within his naval record. While Petitioner claims that he remained in the psychiatric ward of a local hospital from 24 January 1990 until 9 February 1990 before being transferred to [REDACTED], enclosure (4) reflects that he was transferred to [REDACTED]

upon his surrender to military authorities on 19 January 1990 and enclosure (2) reflects that he was not within military custody during the same period that he claimed to be in the local hospital. Based upon this evidence, the Board believed it likely that Petitioner entered another UA status to receive treatment at his local hospital after surrendering himself to military control on 19 January 1990 but determined this to be ultimately immaterial to the outcome of his case.

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h. On 19 March 1990, Petitioner acknowledged receipt of the notification referenced in paragraph 3g above and elected to waive his rights with regard to his proposed administrative separation. See enclosure (7).

i. On 28 March 1990, Petitioner was discharged from the Navy for the convenience of the government due to his severe dependent personality disorder with a general (under honorable conditions) characterization of service. See enclosure (2).

j. By memorandum dated 29 March 1990, the [REDACTED] commander informed the Commander, Naval Military Personnel Command, of Petitioner's discharge due to his severe dependent personality disorder. See enclosure (8). His final performance trait average was 2.7. See enclosure (9).

k. Petitioner contends that his best friend died in a car accident just before he was to report to the [REDACTED], and he had difficulty dealing the aftermath of the accident and his grief. When he reported for duty aboard the [REDACTED], he continued to find it difficult to concentrate or to think about anything other than his best friend. As a result, he claimed that he spiraled down into depression and was ostracized by the crew. It was under these circumstances that he went UA in January 1990. Upon his return to the [REDACTED], however, he found that nothing had changed and that his depression returned, so he departed again with a plan to stay at his parents' summer cottage in Indiana until he worked out a plan to end his life. His parents arrived at the cottage upon learning of his presence there. He was then evacuated to the [REDACTED] hospital, where he stayed from 3 March 1990 until just before his discharge. He described the shame that he felt while being mustered out of the Navy and claims that he continues to struggle with his failure to carry on his family's tradition of service. See enclosure (1).

l. Petitioner included with his application a letter from his treating clinical psychologist asserting that it had become evident over the course of Petitioner's treatment that there were extenuating and persistent mental health circumstances affecting Petitioner at the time of his discharge and opined that his diagnosis during his service likely would have been different if those circumstances were known. Specifically, this psychologist opined that Petitioner was suffering from a deep seated and severe cyclical pattern of anxiety and depression (Major Depressive Disorder (MDD)) which, although in remission at the time of his enlistment, was definitively present in his characterological makeup and had existed throughout the formative years of his life. He further opined that the death of Petitioner's best friend in a vehicle accident served as the trigger which activated his psychiatric condition and eventually culminated in a complete psychiatric breakdown. See enclosure (10).

m. Because Petitioner based his request for relief upon his claimed mental health disorder, his application and records were reviewed by a licensed clinical psychologist who provided an advisory opinion (AO) for the Board's consideration. Even acknowledging the alternative opinion of the clinical psychologist referenced in paragraph 3l above, it was the opinion of this

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licensed clinical psychologist that there was insufficient evidence of error in Petitioner's in-service personality disorder diagnosis.² See enclosure (11).

MAJORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Majority of the Board determined that equitable relief is warranted in the interests of justice.

The Majority found no error in Petitioner's discharge for the convenience of the government due to a personality disorder with a general (under honorable conditions) characterization of service when it was administered. In accordance with paragraph 3620225 of reference (d), administrative separation could be directed by an officer with special court-martial convening authority (SPCMCA) when the member was diagnosed with a personality order that would interfere with the member's performance of duty or pose a threat to their safety or well-being, and which may further render the individual incompatible with the naval service. The personality disorder in question must have been diagnosed by a competent military medical authority,³ and that authority must conclude that the disorder is of such severity as to render the member incapable of serving adequately in the naval service. Petitioner was diagnosed with a severe dependent personality disorder by a military psychiatrist of such severity as to interfere with Petitioner's ability to serve adequately in the Navy. Accordingly, there was an adequate basis for Petitioner's discharge for this reason.

It appears that all procedural requirements were satisfied to sustain this discharge. In accordance with paragraph 3620225.5 of reference (d), discharges for this basis are to be commenced through the notification procedures. Those procedures were properly utilized in this case, as Petitioner was provided with proper notice and waived his right to submit a statement in response to his proposed separation. Although discharges for the convenience of the government due to personality disorders typically required that the member first be counseled regarding his deficiencies and afforded the opportunity to overcome those deficiencies, paragraph 3620225.4d(4) of reference (d) provided an exception to his requirement for instances where the medical authority has evaluated the member as being self-destructive or a continuing danger to himself or others. The military medical authority who diagnosed Petitioner with a severe dependent personality disorder opined in enclosure (5) that Petitioner was a continuing risk to do harm to himself or others, so there was no requirement to afford Petitioner the opportunity to overcome his deficiencies in this case. Finally, the [REDACTED] commander was a SPCMCA, so he was authorized to direct Petitioner's administrative discharge on this basis.

In accordance with paragraph 361033.3a(1) of reference (d), any Sailor must have achieved a final average marks for performance and conduct of not less than 2.8, and an of not less than 3.0 in personal behavior. Petitioner received a final performance average of 2.7, so he was not eligible to receive an honorable discharge at the time. Accordingly, the characterization of

² A copy of this AO was forwarded to Petitioner for comment under cover of a letter dated 13 January 2025, but Petitioner failed to provide a response.

³ Military medical authority was defined in reference (d) as a medical officer specializing in psychiatry or a clinical psychologist.

service assigned was not only appropriate, but was the most favorable characterization which could be assigned at the time under the circumstances.

Because Petitioner based his request for relief in whole or in part upon his claimed mental health condition, the Majority reviewed Petitioner's application in accordance with the guidance of reference (b). Accordingly, the Majority applied liberal consideration to Petitioner's claim that he was suffering from a MDD during his naval service, and the effect that such a condition would have upon the misconduct for which he was discharged. Even applying liberal consideration, however, the Majority found the distinction between a MDD diagnosis and a personality disorder diagnosis to have little relevance with regard to the characterization of Petitioner's service and discharge.⁴ Petitioner was not discharged due to his misconduct, so there is nothing for an alternative mental health diagnosis to excuse or mitigate. If not discharged for his diagnosed personality disorder, Petitioner likely would have been discharged due to his misconduct, and the Majority found that the general (under honorable conditions) characterization assigned to Petitioner's service and discharge would have been just as appropriate pursuant to the former as it was for the latter. Accordingly, the Majority did not believe that an MDD diagnosis in lieu of the personality disorder rendered at the time would warrant any relief in this regard. The Majority did, however, consider Petitioner's claimed MDD with liberal consideration amongst the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice, as discussed further below.

In addition to applying liberal consideration to Petitioner's claimed mental health condition and the effect that it may have had upon the conduct for which he was discharged in accordance with reference (b), the Majority also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (c). In this regard, the Majority considered, among other factors, Petitioner's claim that he was suffering from a long-standing MDD which was triggered by the tragic death of his best friend; the relatively minor and non-violent nature of Petitioner's misconduct; Petitioner's self-reported post-service conduct, to include his reported long-term employment and efforts to raise his family; Petitioner's stated regret for his inability to serve; Petitioner's relative youth and immaturity during his naval service; and the passage of time since Petitioner's discharge. The Majority found these mitigating factors sufficient to justify the equitable relief that Petitioner requested.

Although not specifically claimed by Petitioner, the Majority also found an injustice in the fact that Petitioner's DD Form 214 includes a reference to his diagnosed personality disorder. In accordance with reference (d), the Board is required to consider that "[c]hanges in policy, whereby a Service member under the same circumstances today would reasonably be expected to receive a more favorable outcome than the applicant received, may be grounds for relief" in determining whether to grant relief on the basis of an injustice.⁵ A Service member would be just as likely to be discharged today under the same circumstances as was Petitioner, but would not reasonably expect that his DD Form 214 would include reference to a diagnosed personality disorder. As such, the Majority found an injustice in the fact that Petitioner must continue to

⁴ This distinction would be relevant to the narrative reason for Petitioner's separation, but the Board recommended that that be corrected for other reasons, as discussed further below.

⁵ See paragraph 6f of the attachment to reference (d).

disclose personal and potentially embarrassing and stigmatizing medical information whenever he has reason to use his DD Form 214 to prove his previous naval service while similarly situated Service members discharged today under the same or similar circumstances would not. For this reason, the Board determined that Petitioner's narrative reason for separation and its associated separation code and authority should be equitably changed to remove any such reference.

MAJORITY RECOMMENDATION:

Based upon its conclusions above, the Majority of 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 DD Form 214 reflecting that his service ending on 28 March 1990 was characterized as "Honorable"; that the narrative reason for his separation was "Secretary Plenary Authority"; that his separation authority was "MILPERSMAN 3630900"; and that his separation code was "JFF." All other entries reflected in Petitioner's current DD Form 214 are to remain unchanged.

That Petitioner be issued an Honorable Discharge Certificate.

That a copy of this record of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken on Petitioner's naval record.

MINORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Minority of the Board also determined that equitable relief is warranted in the interests of justice, but not to the extent recommended by the Majority.

The Minority concurred with the Majority's conclusion in all regards except with regard to the scope of relief warranted. Like the Majority, the Minority also applied liberal consideration to Petitioner's claimed mental health condition and its potential effect upon his conduct in accordance with reference (b) and considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice. With regard to the latter, the Minority simply disagreed with the Majority conclusion that an equitable upgrade to the characterization of Petitioner's service/discharge is warranted in the interests of justice. In reaching this conclusion, the Minority noted that while Petitioner described post-service conduct and contributions to society which might weigh in favor of such equitable relief, he did not provide any evidence to support these claims. The Minority did not believe that such extraordinary equitable relief should be granted absent evidence supporting the basis for it. In accordance with reference (a), Petitioner is entitled to request reconsideration of the Board's decision upon the submission of new material not previously presented to or considered by the Board. Accordingly, the Minority believed that Petitioner should be invited to request reconsideration of its decision to deny Petitioner's request to upgrade his characterization of

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service upon obtaining and providing evidence of the post-service accomplishments that he claims to support such relief.

MINORITY RECOMMENDATION:

Based upon its conclusions above, the Minority of 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 DD Form 214 reflecting that the narrative reason for his separation on 28 March 1990 was "Secretary Plenary Authority"; that his separation authority was "MILPERSMAN 3630900"; and that his separation code was "JFF." All other entries reflected in Petitioner's current DD Form 214, to include his characterization of service, are to remain unchanged.

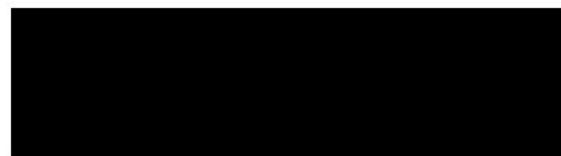
That a copy of this record of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken on 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 titled matter.

5. The foregoing action of the Board is submitted for your review and action in accordance with Section 6e(1)(b) of Enclosure (1) to reference (e).

6/13/2025



Executive Director

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

 MAJORITY Recommendation Approved (Full Relief – I concur with the Majority conclusion and therefore direct the relief recommended by the Majority above.)

X MINORITY Recommendation Approved (Partial Relief – I concur with the Minority conclusion and therefore direct the relief recommended by the Minority above.)



Assistant General Counsel (M&RA)