



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

█
Docket No. 9416-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, █,
USN: █

Ref: (a) 10 U.S.C. § 1552
(b) Official Military Personnel File (OMPF)
(c) Petitioner's Health Record
(d) USECDEF Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018
(e) USECDEF Memo, "Clarifying Guidance to Boards for Correction of Military/Naval Records Considering Cases Involving Both Liberal Consideration Discharge Relief Requests and Fitness Determinations," of 4 April 2024

Encl: (1) DD Form 149 w/enclosures
(2) CO, █, 1910 Code 013 Memo, subj: Notice of Notification Procedure Proposed Action, 23 February 1994
(3) Certificate of Release or Discharge from Active Duty (DD Form 214)

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 his narrative reason for separation be changed to "medical discharge and disability" and his characterization of service¹ changed from general under honorable conditions to honorable.

2. The Board, consisting of █, and █ reviewed Petitioner's allegations of error and injustice on 12 December 2024, 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 the enclosures, relevant portions of naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all of the evidence of record pertaining to Petitioner's allegations of error or injustice, finds 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. Although Petitioner's application was not filed in a timely manner, the Board, in the interest of justice, waived the statute of limitations and considered the case on its merits.

¹ Petitioner requested this relief in his statement to █.

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b. A review of reference (b), Petitioner's OMPF, reveals Petitioner enlisted in the Navy and entered active duty on 18 May 1993. Although the specific documentation is not in his OMPF, an Administrative Remarks (Page 13) entry dated 13 February 1994 indicates commanding officer (CO), ██████████ imposed nonjudicial punishment (NJP) on 13 January 1994. According to the Enlisted Performance Record included in reference (b), NJP was also imposed on 10 February 1994.

c. A review of reference (c), Petitioner's health record, indicates that on 4 February 1994 he was evaluated due to "marital discord, financial difficulties, discipline problems at work, unable to adjust to shipboard life." The entry specifically stated Petitioner was "not considered mentally ill but manifests a longstanding disorder of character and behavior which is of such severity as to render the individual incapable of serving adequately in the Navy." Further, the staff psychologist stated his diagnostic impression was alcohol dependence, "other specified family circumstances," "other life circumstance problem," and Personality Disorder with Anti-social and Passive Aggressive features. The psychologist also specifically noted Petitioner was "fit for return to duty for immediate processing for administrative separation."

d. On 24 February 1994, ██████████, notified Petitioner he was being processed for administrative separation by reason of Convenience of the Government due to Personality Disorder. Petitioner waived his rights and did not object to the separation. The administrative separation documentation in reference (b) appears incomplete but Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) indicates he was discharged on 4 March 1994 with a general, under honorable conditions, characterization of service by reason of Convenience of the Government due to Personality Disorder. Enclosures (2) and (3).

e. Petitioner contends his narrative reason should read "medical discharge and disability" because his condition was caused by the military. He contends he requested "mental help" while stationed onboard ██████████ but "was not given any help while in service." In his statement to his Congressional Representative, Petitioner contends he was the only one punished at Captain's Mast for an altercation. He further contends he was "lied to let down and abandoned by [his] command" and "[t]old to sign a dd214 without explanation without separation class to explain [his] transition back into civilian society what benefits [he] would and would not be entitled to..." Petitioner further contends, in his congressional statement, that a personality disorder is a mental illness. Lastly, he states that here he is, 30 years later, "depressed and broken" and "begging still for help from uncle sam." Enclosure (1).

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board concluded Petitioner's request warrants partial relief. Specifically, the Board observed Petitioner's DD Form 214 at enclosure (3) describes his narrative reason for separation as "Personality Disorder." In keeping with the letter and spirit of current guidance, the Board determined 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 in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictate a change. Accordingly, the Board concluded Petitioner's discharge should not be labeled as

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being for a mental health-related condition and that certain remedial administrative changes are warranted to the DD Form 214.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warranted relief in Petitioner's case in accordance with the Wilkie memo. For purposes of clemency and equity consideration, the Board considered the totality of the evidence he provided in support of his application. Further, in accordance with the Vazirani memo, the Board first applied liberal consideration to his contention he should have received an honorable characterization vice a general, under honorable conditions, characterization. After making that determination, the Board then separately assessed his claim of medical unfitness, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

Notwithstanding the recommended corrective action below, the Board determined Petitioner had no basis for medical discharge or retirement and denied his request. In reaching its decision, the Board observed that in order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of his/her office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if his/her disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing Petitioner's record, the Board concluded the preponderance of the evidence does not support a finding that he met any of the criteria for unfitness at the time of his discharge. The Board found Petitioner failed to provide sufficient evidence to demonstrate he had an unfitting condition at the time he was discharged from active duty with a personality disorder. In particular, the Board presumed the basis for his discharge from active duty due to personality disorder was supported by rational medical evidence. Additionally, the Board, noting NJP was twice imposed on Petitioner, determined there was insufficient evidence of an error or injustice in his discharge with a general, under honorable conditions, characterization of service. Accordingly, based on the foregoing, the Board denied Petitioner's requested relief.

RECOMMENDATION

In view of the above, the Board recommends the following corrective action be taken on Petitioner's naval record.

Petitioner shall be issued a new DD Form 214 for the period 18 May 1993 ending 4 March 1994, indicating his narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 1910-164."

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

1/17/2025

