



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

██████████
Docket No. 9606-25

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) USECDEF Memo of 25 Jul 18 (Wilkie Memo)
(c) USECDEF Memo of 25 Aug 17 (Kurta Memo)
(d) SECDEF Memo of 13 Sep 14 (Hagel Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion of 10 Feb 25

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting his discharge be upgraded to Honorable (HON), or in the alternative General (Under Honorable Conditions) (GEN), and his narrative reason for separation be changed to "Secretarial Authority." Enclosures (1) through (4) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 21 April 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 (d). Additionally, the Board considered, enclosure (4), an advisory opinion (AO) furnished by qualified mental health provider, and the 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 3 June 2003.

d. On 15 April 2005, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA). Additionally, Petitioner was issued an administrative remarks (Page 13) counseling concerning deficiencies in his performance and/or conduct. He was advised that any further deficiencies in performance and/or conduct may result in disciplinary action and in processing for administrative discharge

e. On 8 November 2005, Petitioner received NJP for UA and insubordinate conduct toward a non-commissioned officer.

f. On 10 April 2006, Petitioner received NJP for UA and failure to obey an order or regulation.

g. Consequently, Petitioner was notified of administrative separation processing by reason of misconduct due to pattern of misconduct and misconduct and commission of a serious offense. He waived all rights but for the right to obtain copies of documents related to the separation process.

h. On 25 April 2006, Petitioner's commanding officer recommended he be separated with an OTH stating, "[Petitioner] is simply unwilling to conduct himself in a manner conducive to good or and discipline." He was so discharged on 24 May 2006.

i. Post-discharge Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade to Honorable in order to pursue GI Bill benefits. The NDRB denied relief, on 6 January 2009, after finding his discharge was proper as issued.

j. Petitioner contends, from June 2003 until May 2006, he was an exemplary Sailor; however, while deployed, he began suffering from depression and PTSD. While trying to cope with his deteriorating mental health on his own, he received three NJPs for minor, infrequent, and non-violent misconduct. Regarding his deterioration, he contends he began dealing with family hardship in December 2005; after learning his wife was pregnant while he prepared for deployment. The stress of leaving her behind began to damage his marriage and mental health. He tried to work with his superiors and was allowed to leave work early at times to resolve issues at home but things continued to grow more difficult with his mental health. Soon after the ship deployed, he began showing signs of depression. He was losing motivation and having difficulty getting out of bed and waking up on time. During that time, he was also deployed to the site of a tsunami in Thailand and witnessed corpses floating in the water. He then began having vivid dreams involving death and disasters, the feeling of drowning, and feeling he would be killed. He also learned his spouse was unfaithful and living with another man. His only child was born after deployment but his wife threatened to leave him with the child and made suicidal threats. He knew his performance was declining but he did not know where to turn for help. He knows he began to surround himself with the wrong people and that the general way he was conducting himself was not proper. Since discharge, he has continued to struggle with mental health and family dynamics but he has also begun to turn his life around. He earned a degree and has been working in the healthcare industry; first in patient care, and now in administration. He has also

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built his own company that fulfills government contracts. He has worked on his mental health and, in September 2021, was diagnosed with depression, anxiety, and PTSD. In support of his application and for the purpose of clemency and equity consideration, he provided a legal brief with exhibits; including medical diagnosis information, his personal statement, and four advocacy letters.

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

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He has provided evidence of mental health concerns that is temporally remote to his military service but has been attributed to his military service by a civilian provider. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct, given the lapse in time between military service and symptoms sufficiently interfering as to warrant treatment. There is insufficient evidence of a diagnosis of PTSD. 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 post-service evidence of a mental health condition that may be attributed to military service. There is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition."

In response to the AO, the Petitioner provided documentation that supplied additional clarification of the circumstances of his case. Following review, the original AO remained unchanged.

CONCLUSION

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

In this regard, the Board noted Petitioner's misconduct and does not condone his actions. However, the Board concurred with the AO and determined that there is post-service evidence of a mental health condition that may be attributed to military service. Although the AO did not find the evidence sufficient to attribute Petitioner's misconduct to a mental health condition, after carefully considering all the evidence, and applying liberal consideration to Petitioner's case, the Board felt Petitioner's mental health condition should partially mitigate the misconduct Petitioner committed while on active duty. In making this finding, the Board determined his condition outweighed the severity of the misconduct. Therefore, the Board concluded that no useful purpose is served by continuing to characterize Petitioner's service as OTH and re-characterization to General (Under Honorable Conditions) is now more appropriate. Further,

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based on the same rationale, the Board determined it was in the interests of justice to change Petitioner's narrative reason for separation, separation authority, and separation code, 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. Finally, the Board determined Petitioner's assigned reentry code remains appropriate in light of his record of misconduct and unsuitability for further military service. Ultimately, the Board concluded 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 Certificate of Release from Active Duty (DD Form 214), for the period ending 24 May 2006, indicating he was discharged with a "General (Under Honorable Conditions)" characterization of service, separation authority of "MILPERSMAN 1910-164," separation code of "JFF," and narrative reason for separation of "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.

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.

5/5/2025

