



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

[REDACTED]
Docket No. 9632-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]
[REDACTED] USMC

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) USD Memo of 25 August 2017 (Kurta Memo)
(d) USECDEF Memo of 25 July 2018 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with the Board for Corrections of Naval Records (Board), requesting that his naval record be corrected to upgrade his characterization of service and to make other conforming changes to his DD Form 214.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 25 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 also considered an advisory opinion (AO) furnished by qualified mental health provider and Petitioner's AO rebuttal submission.

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.

c. The Petitioner enlisted in the U.S. Marine Corps and began a period of active service on 17 July 1990. Petitioner's enlistment physical examination, on 29 November 1989, and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, history, or counseling.

d. On 7 October 1991 Petitioner received non-judicial punishment (NJP) for an unauthorized absence and for three separate specifications of insubordinate conduct. A portion of the punishment was suspended for six (6) months. Petitioner did not appeal his NJP. On 8 October 1991, Petitioner's command placed a "Page 11" counseling entry (Page 11) in his service record documenting his NJP. The Page 11 informed Petitioner that a failure to take corrective action may result in administrative or judicial proceedings. On 19 November 1991, Petitioner's command vacated and enforced the suspended portion of Petitioner's NJP due to continuing misconduct.

e. On 19 December 1991, Petitioner's command placed another Page 11 in his service record documenting his unsatisfactory performance while assigned to the Correctional Custody Unit. On 3 January 1992, Petitioner's command issued a Page 11 documenting the suspension of his base driving privileges. Petitioner's command issued yet another Page 11, on 24 March 1992, documenting his writing of worthless checks and his pattern of misconduct.

f. On 26 March 1992, Petitioner received NJP for insubordinate conduct. Petitioner did not appeal his NJP. On 6 October 1992, Petitioner received NJP for failing to obey a lawful order and for damage to government property through neglect. Petitioner did not appeal his NJP.

g. On 7 January 1993, Petitioner's command notified him of administrative separation proceedings by reason of misconduct due to minor disciplinary infractions. Petitioner consulted with counsel and elected his right to request a hearing before an administrative separation board (Adsep Board).

h. On 19 March 1993, an Adsep Board convened in Petitioner's case. At the Adsep Board, Petitioner was represented by counsel and provided a sworn statement. Following the presentation of evidence and witness testimony, the Adsep Board members unanimously determined that the preponderance of the evidence supported the basis for separation. Subsequent to the misconduct finding, the Adsep Board members unanimously recommended that Petitioner be separated with an under Other Than Honorable (OTH) characterization of service.

i. On 11 June 1993, the Separation Authority approved and directed Petitioner's OTH discharge. Ultimately, on 23 June 1993, Petitioner was discharged from the Marine Corps for misconduct with an OTH characterization of service and assigned an RE-4 reentry code.

j. On 23 January 1995, the Naval Discharge Review Board denied Petitioner's initial discharge upgrade application.

k. On both 21 August 1998 and 2 June 2005, Petitioner's Army National Guard physical examinations and self-reported medical history both noted no psychiatric or neurologic issues, conditions, or symptoms.

l. On 13 May 2009, this Board denied Petitioner's initial discharge upgrade petition. Petitioner did not proffer any mental health-related contentions with his petition.

m. Petitioner requested liberal consideration and clemency in the form of a discharge upgrade and other ancillary relief. In short, Petitioner contended he was suffering from undiagnosed post-traumatic stress disorder (PTSD) in the Marine Corps. Petitioner requested that the Board grant liberal consideration that his PTSD-related mental health considerations mitigated the behavior leading to his discharge, and were not outweighed by the seriousness of his cumulative misconduct. The Petitioner argued that the Board must view his mental health conditions as a mitigating factor to the misconduct underlying his discharge and upgrade his characterization of service. Petitioner further requested relief based on Wilkie Memo clemency considerations and post-service conduct.

n. Based on Petitioner's contention that he was suffering from a mental health condition, a licensed clinical psychologist (Ph.D.) reviewed Petitioner's contentions and the available records, and issued an AO dated 16 January 2025. As part of the Board's review, the Board considered the AO. The AO stated, in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns during military service, which may have contributed to the circumstances of his separation from service...The Petitioner contended he incurred PTSD from the stresses of deployment, which contributed to misconduct. He claimed that his financial mismanagement was because "his account was overdrawn, likely as a result of the money he was spending on alcohol." He claimed that he inadvertently burned a tent, resulting in damage to government property, while "using fire to get rid of a swarm of red ants."

Following discharge from the USMC, the Petitioner joined the Army National Guard (ANG). In pre-enlistment physicals in February 1998 and June 2005, he denied current or past mental health symptoms.

The Petitioner deployed to [REDACTED] and [REDACTED] with the ANG from January to September 2009. In his September 2009 post-deployment assessment, he denied mental health symptoms or problematic alcohol use. In December 2009, he reported that PTSD and Depression symptoms were a "minor concern."

Petitioner has been granted service connection for PTSD with insomnia disorder, effective May 2019, and attributed to his Army service from September 2008 to October 2009.

There is no evidence that he was diagnosed with a mental health condition during his USMC military service. He repeatedly denied mental health symptoms until a few months after his return from his [REDACTED] deployment with the ANG. The VA has granted service connection for PTSD from his [REDACTED] deployment. It is possible that stressors from his USMC deployment in [REDACTED] may have contributed to undiagnosed symptoms of PTSD, but it is difficult to attribute his misconduct to symptoms of PTSD, given his denial of symptoms for many years following his USMC service. Additionally, the Petitioner claims that his USMC misconduct was minor or inadvertent, which makes it difficult to attribute it to undiagnosed mental health concerns.

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The Ph.D. concluded, "it is my clinical opinion that there is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his USMC misconduct to PTSD or another mental health condition."

Following a review of Petitioner's AO rebuttal submission, the Ph.D. did not change or otherwise modify their original AO.

CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief.

The Board initially determined that Petitioner's administrative separation for misconduct was legally and factually sufficient, and in accordance with all Department of the Navy directives and policy at the time of his discharge.

However, in keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, and although the Board does not condone the Petitioner's repeated and willful misconduct, the Board felt that Petitioner's purported PTSD and resulting symptoms mitigated some of the misconduct used to characterize his discharge. The Board concluded that the Petitioner's mental health-related conditions and/or symptoms as possible causative factors in the misconduct contributing to his discharge and characterization were not outweighed by the severity of Petitioner's misconduct. With that being determined, the Board concluded that no useful purpose is served by continuing to characterize the Petitioner's service as having been with an OTH and that a discharge upgrade to "General (Under Honorable Conditions)" ("GEN"), and no higher, based in part on liberal consideration of mental health considerations is appropriate at this time. Additionally, based on the same rationale, the Board determined it was in the interests of justice to change Petitioner's reason for separation to reflect a "Secretarial Authority" discharge.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an Honorable discharge characterization. The Board did not believe that the Petitioner's record was otherwise so meritorious to deserve an Honorable discharge. The Board concluded that significant negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record even under the liberal consideration standard for mental health conditions. The Board believed that, even though flawless service is not required for an honorable discharge, in this case a GEN discharge and no higher was appropriate. The Board determined the record reflected that Petitioner's misconduct was intentional and demonstrated he was unfit for further service. The Board also concluded that the evidence of record did not demonstrate that Petitioner was not mentally responsible for his conduct or that he should not otherwise be held accountable for his actions. Additionally, in light of the Wilkie Memo, the Board still similarly concluded after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency and leniency given his commendable service in the National Guard, that the Petitioner only merits a GEN characterization of service and no higher.

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Lastly, the Board did not find a material error or injustice with the Petitioner's original RE-4 reenlistment/reentry code. The Board concluded the Petitioner was assigned the correct reentry code based on the totality of his circumstances, and that such reentry code on Petitioner's DD Form 214 was entirely proper and in compliance with all Department of the Navy directives and policy at the time of his discharge.

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty, for the period ending 23 June 1993, indicating he was discharged with a "General (Under Honorable Conditions)" character of service, narrative reason for separation of "Secretarial Authority," separation authority of "MARCORSEPMAN par. 6214," and separation code of "JFF1."

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 Regulations, 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.

5/1/2025

