



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

██████████
Docket No. 9852-24

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
XXX XX ██████████ USMC

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 3 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USD Memo of 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures
(2) Revised Advisory Opinion (AO) of 3 Mar 25
(3) Rebuttal to AO of 28 Jan 25

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 that his discharge be upgraded to "Honorable," his narrative reason for separation be changed to "Secretarial Authority," and his reentry code be changed to "RE-1." Enclosure (1) applies.

2. The Board, consisting of ██████████, ██████████, and ██████████, 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, applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board considered enclosure (2), the advisory opinion (AO) furnished by qualified mental health provider, which was revised in response to enclosure (3), and Petitioner's response to the original 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. Petitioner enlisted in the Marine Corps under a reserve option contract and began an period of initial active duty for training on 18 January 2006. He was honorably discharged on 17 June 2006 incident to his completion of his required period of active service.

c. On 27 July 2006, Petitioner began a temporary active duty assignment with a deploying unit.

d. On 10 February 2007, while posted on guard duty, Petitioner created a “joke” video with a manipulated camera angle in which he intended to appear as though he had shot an unarmed civilian when, in fact, he had fired his weapon into a wall.

e. On 21 June 2007, Petitioner was administratively counseled regarding his lack of responsibility in failing to arrive at his appointed place of duty at the appointed time.

f. Petitioner was tried by Special Court-Martial (SPCM) on 20 November 2007. Petitioner was found guilty, according to his pleas, for violations of the Uniform Code of Military Justice (UCMJ) to include Article 92, for dereliction in the performance of his duties at or near his observation post, in that he willfully failed to walk his post in a military manner and keep always on the alert, as it was his duty to do, by making a prank video of himself while on post and, one specification under Article 134, for wrongfully and willfully discharging a firearm, his M16 service rifle, under circumstances such as to endanger human life. He pleaded not guilty to two other charges and specifications under Article 134, of which he was acquitted.¹ He was sentenced to 12 months confinement with total forfeitures of pay, reduction to the paygrade of E-1, and a Bad Conduct discharge (BCD).

g. Petitioner’s detailed defense counsel submitted post-trial matters in clemency on 6 December 2007.²

h. On 8 March 2008, Petitioner was found fit for separation. His official military personnel file (OMPF) contains no further information regarding the appellate review of the findings and sentence of his SPCM proceedings or the execution of his punitive discharge.

i. Petitioner contends that he incurred combat-related post-traumatic stress disorder (PTSD) during his operational deployment in [REDACTED], where his unit had assumed responsibility from the command which was involved in the [REDACTED]. His personal statement describes multiple exposures to traumatic experiences during his deployment, to include collecting body parts from an Army tank which had been blown up. He describes the environment as one in which he felt that he was simply waiting for his turn to die and asserts that, at the time he made the prank video, his intention was to relieve the stress he was

¹ Based on the Convening Authority’s action, Petitioner had negotiated a pre-trial agreement which insulated him from confinement in excess of 90 days. Atypically, however, this agreement permitted him to plead guilty to certain charges and specifications while pleading not guilty to other charges and specifications, but also permitting the government to proceed on the charges to which he pled not guilty, rather than withdrawing and dismissing those charges.

² The content of these matters was not available for the Board’s review.

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experiencing. He recognizes that his actions were detrimental to military discipline, morale, and the well-being of his fellow Marines, and he is apologetic. He has been determined not to let his punitive discharge ruin his life; he believes, in the time since his discharge, that he has worked exceptionally hard to demonstrate his redemption.

j. In support of his contentions and for the purpose of clemency and equity consideration, he submitted service health records, his mental health assessment, records related to his SPCM proceedings, and evidence of post-service character and accomplishments, to include academic transcripts, his résumé, and nine character letters.

k. Because Petitioner contends a mental health condition, the Board also requested enclosure (2), the AO, for consideration. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. Although he endorsed exposure to traumatic precipitants, he denied symptoms sufficiently interfering as to warrant referral for treatment. He has provided no post-service medical evidence in support of his claims. Unfortunately, available records are insufficiently detailed to establish a nexus with his misconduct, as it is difficult to attribute a joke in poor taste to PTSD irritability or hyperarousal. 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 opinion that there is insufficient evidence of a diagnosis of PTSD. There is insufficient evidence to attribute his misconduct to PTSD.

l. In response to the AO, Petitioner submitted additional evidence for consideration. After consideration of Petitioner's rebuttal evidence, the AO was modified as follows:

I have reviewed Petitioner's additional documents. The Petitioner has presented post service civilian medical evidence of a diagnosis of PTSD attributed to combat exposure. However, it is difficult to attribute his misconduct to undiagnosed symptoms of PTSD. It is difficult to attribute a joke in poor taste to unrecognized symptoms of irritability or hyperarousal associated with PTSD.

The concluded was revised to state, "There is post-service civilian evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

CONCLUSION:

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

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In this regard, the Board noted Petitioner's serious misconduct and does not condone it. Additionally, the Board (AO) observed that the AO did not find that Petitioner's misconduct associated with the making of a prank video was mitigated by a mental health condition. However, the Board favorably considered Petitioner's combat record and overall quality of service, his willingness to accept responsibility for his misconduct, his remorse, his evidence of post-discharge rehabilitation and character, the passage of time, and his relative youth and immaturity at the time he committed his misconduct in a highly stressful combat environment. As a result, the Board found that the totality of favorable matters in support of clemency outweighed the misconduct which resulted in Petitioner's punitive discharge and determined it was in the interests of justice to upgrade Petitioner's characterization of service to General (Under Honorable Conditions). Based on the same rationale, the Board determined Petitioner's basis 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 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. Additionally, 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 determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating, on the date of his discharge resulting from his SPCM conviction, that he was discharged with a "General (Under Honorable Conditions)" characterization of service, under the authority of "MARCORSEPMAN par 6214," for the narrative reason of "Secretarial Authority," with a separation code of "JFF1."

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

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

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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.

5/20/2025

