



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

██████████
Docket No. 10540-24
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) Advisory Opinion (AO) dtd 21 Feb 25
(3) Rebuttal to AO dtd 18 Mar 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 punitive discharge be upgraded and that his narrative reason for separation be changed to reflect "Secretarial Authority." Enclosures (1) through (3) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 2 May 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), an advisory opinion (AO) furnished by qualified mental health provider, and enclosure (3), 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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

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

XXX XX [REDACTED] USMC

b. Petitioner enlisted in the Marine Corps with a history of pre-service drug use and began a period of active duty on 22 February 1990. He participated in [REDACTED] from January 1991 through April 1991 and earned the Combat Action Ribbon along with campaign awards.

c. On 1 July 1991, Petitioner received nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice (UCMJ) under Article 86 for an unauthorized absence (UA) of 3 hours and 15 minutes.

d. On 28 May 1992, Petitioner was issued administrative counseling advising him to correct deficiencies with respect to his lack of a sense of responsibility and self-discipline, to include continued problems with UAs. He was warned that failure to correct these deficiencies could result in administrative separation or disciplinary action. However, he incurred an additional UA period of 40 minutes shortly thereafter and received his second NJP on 8 July 1992.

e. On 2 February 1993, Petitioner received a third NJP for violations of the UCMJ under Articles 91 and 92, respectively, for being disrespectful toward a noncommissioned officer (NCO) and for disobedience of a lawful order issued by the same NCO.

f. On 14 April 1994, Petitioner was tried by Special Court-Martial (SPCM) for violation of Article 112a due to wrongful use of cocaine. Contrary to his plea of not guilty, he was found guilty of the offense and was sentenced to three months confinement with concurrent forfeitures of pay, reduction to the paygrade of E-1, and a Bad Conduct Discharge (BCD).

g. The findings and sentence of Petitioner's SPCM proceedings were affirmed following appellate review of his assignments of error and his BCD was executed on 29 July 1995.

h. Petitioner contends that his record shows a marked change in his behavior after his combat deployment which he believes warrants liberal consideration of his misconduct due to the mitigating factor of his post-traumatic stress disorder (PTSD); which he attributes to combat exposure and traumatic events during. He states that his vehicle was struck by a 150-pound bomb, rendering him unconscious, and that he witnessed the death of a close friend by exploding grenades. He also claims that he actively engaged with enemy combatants and experienced frequent exposure to bombing and dead bodies. He relates symptoms of unwarranted anger, night terrors, trouble sleeping, and anxiety; which he states that he self-medicated with alcohol and drugs to attempt to escape and to sleep. Post-discharge, he claims that he has turned his life around, building a successful career and finally remaining sober after joining AA over two years ago. For the purpose of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his legal counsel's brief, a personal declaration, letters of support, his military service and health records, and copies of the policy memos identified in the references.

i. Because Petitioner contends that PTSD mitigates his misconduct, the Board also requested enclosure (2) for consideration. It stated in pertinent part:

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]
XXX XX [REDACTED] USMC

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. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence to support his claims. Unfortunately, his statement is not sufficiently detailed to establish clinical symptoms of PTSD in service or provide a nexus with his misconduct, particularly given his denial of substance use in service. While it is possible that UA and disrespect could be considered behavioral indicators of avoidance or irritability associated with undiagnosed PTSD, it is difficult to make this attribution without resorting to mere speculation, particularly given the extended lapses in time between his periods of misconduct. Additionally, his positive behavior demonstrated in the same period, as evidenced by the Meritorious Mast, is not consistent with an individual suffering from debilitating symptoms 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, "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 PTSD or another mental health condition."

j. In response to the AO, Petitioner provided additional evidence in support of his application. After reviewing the rebuttal evidence, the AO remained unchanged.

CONCLUSION:

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

In this regard, the Board noted Petitioner's misconduct and does not condone it. Additionally, the Board concurred with the AO that there is insufficient evidence of record to substantiate Petitioner's contentions of PTSD; specifically with respect to the nexus between his contended combat-trauma and his in-service use of cocaine three years later. However, the Board favorably considered his evidence of Petitioner's post-discharge rehabilitation and character. It observed that he has successfully recovered from his substance abuse, maintained sobriety, and has successfully rehabilitated himself. 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 for a single instance of cocaine use. Therefore, the Board determined it was in the interests of justice, purely as a matter of clemency, to change Petitioner's characterization of service to General (Under Honorable Conditions). Based on the same rationale, the Board also determined it was appropriate to change Petitioner's reason for separation to Secretarial Authority.

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

XXX XX [REDACTED] USMC

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 also found 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, for the period ending on 29 July 1995, he was discharged with a "General (Under Honorable Conditions) characterization of service, under the authority of "MARCORSEPMAN par 6214," for the narrative reason of "Determination of Service Secretary – Secretary of the Navy Plenary 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 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.

5/27/2025

[REDACTED]

Executive Director

Signed by: [REDACTED]